

109th Congress }  
2nd Session }

JOINT COMMITTEE PRINT {

# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2005

VOLUME II

R E P O R T

SUBMITTED TO THE

COMMITTEE ON INTERNATIONAL  
RELATIONS

U.S. HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS  
U.S. SENATE

BY THE

DEPARTMENT OF STATE

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

Available via the World Wide Web:  
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MAY 2006

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

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## FOREWORD

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

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

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

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



## LETTER OF TRANSMITTAL

---

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

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

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

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

Sincerely,

JEFFREY T. BERGNER,  
*Assistant Secretary, Legislative Affairs.*

Enclosure:  
As stated.



## PREFACE

---

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

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

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

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

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

CONDOLEEZZA RICE,  
*Secretary of State.*



## OVERVIEW AND ACKNOWLEDGEMENTS

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### HUMAN RIGHTS REPORTS

#### WHY THE REPORTS ARE PREPARED

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

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

#### HOW THE REPORTS ARE PREPARED

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

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

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

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

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

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

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



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## **INTRODUCTION TO THE COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2005**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## NEAR EAST AND NORTH AFRICA

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### ALGERIA

Algeria is a multi-party republic based on a constitution and a presidential form of government. The head of state is elected by popular vote to a 5-year term. The president has the constitutional authority to appoint and dismiss cabinet members, as well as the prime minister, who acts as the head of the government. The president also serves as commander in chief of the armed forces. In the country's first democratic, contested presidential elections, President Bouteflika was re-elected in April 2004 from among five other candidates while the military remained neutral. An international observer concluded these elections were generally free and fair, although not without flaws. Government authorities further strengthened civilian rule and control over the military; however, in some instances security forces acted independently of government authority.

The following human rights problems were reported:

- failure to account for past disappearances of persons
- allegations of abuse and torture of detainees
- impunity
- arbitrary arrest and prolonged pretrial detention
- lack of judicial independence
- denial of fair and expeditious trials
- restrictions on civil liberties—freedoms of speech, press, assembly, association, and movement
- limitations on freedom of religion
- corruption and lack of government transparency
- discrimination against women and minorities
- restrictions on workers' rights

Despite these problems following over a decade of civil strife and terrorism, the government took several important steps to strengthen human rights. There was a significant further reduction in reported abuses and use of torture by the security forces. A new code of police conduct reduced the number of arbitrary arrests. Government actions contributed to a reduction in the number of terrorism-related civilian deaths. The government launched a widespread crackdown on corruption, sentencing officials to prison; however, corruption remained a serious problem. Revisions to the Family Code and Nationality Code substantially strengthened equal rights protections for women. The government took significant steps during the year to defuse tensions with the Kabylie and address social and economic concerns of regional leaders. An accord reached between the government and the Arouch (Berber citizen) Movement led to special regional elections in November that addressed under representation of Kabylie interests in regional and municipal assemblies.

Terrorist groups committed numerous, serious abuses. Security force operations weakened terrorist groups and lowered casualty levels during the year.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the government or its agents; however in July in Bechar, one asthmatic woman died during a protest in which police used teargas.

According to the government, the total number of terrorist, civilian, and security force deaths during the year was 488, compared to 429 in 2004 and 1,162 in 2003. Of these 488 deaths during the year, terrorists killed 76 civilians (93 in 2004) and

177 security force members (117 in 2004); and security forces killed an estimated 235 suspected terrorists (219 in 2004).

According to credible reports in May 2004, adolescents Chouaib Argabi and Ali Remili stole food, hid it in a palm grove, and attempted to retrieve it in the night. In an area where armed terrorist groups have conducted operations, Communal Guards (GLD) noticed their movements and allegedly fired without warning, killing Argabi, an ethnic Berber, and sparking demonstrations the next day (see section 1.c.). The commander of the GLD publicly denied that his guards fired summarily. Although an investigation was conducted, the results were not made public.

Terrorists targeted civilians, security forces, and infrastructure, often using stolen police uniforms, weapons, and equipment. Revenge, banditry, and land ownership disputes and not terrorism per se prompted some killings. The violence occurred predominantly in mountainous and rural areas.

*b. Disappearance.*—During the year, there were no reports of politically motivated disappearances. Thousands of disappearances occurred in the mid-1990s, most of which were attributed to the security forces. The last known disappearance, according to local and international non-governmental organizations (NGOs), occurred in 2002.

The total number of disappeared during the 1990's continued to be debated. Officially, the government estimated during the year that 6,146 persons were missing or disappeared as a result of government actions between 1992 and the end of 1998, with some 10,000 additional persons missing or disappeared from terrorist kidnappings and murders. However, local NGOs reported that security forces played a role in the disappearances of approximately 8,000 persons. Amnesty International (AI), in its 2003 report, stated that 4,000 men and women disappeared from 1993–2000 after being arrested by members of the security forces or state-armed militias. Human rights attorney Ali Yahia Abdenour estimated in 2003 the total missing from both security force and terrorist actions, based on the testimony of family members, at 18,000.

Nearly all of the disappearances remained unresolved. Local offices of the Ministry of Interior in each district accepted cases from resident families of those reported missing, but provided little useful follow-up information. In 2003, the government established the Ad Hoc Mechanism on the Disappeared and named Farouk Ksentini as director. The Mechanism has the authority to request information on behalf of victims' families from governmental agencies to research familial claims of disappearances, but it is not an investigative body and cannot force the cooperation of other governmental agencies or the security forces.

In February 2004, President Bouteflika publicly declared that the state must accept responsibility for the actions of security personnel, even though such actions were not authorized by government policy. In April 2004, the Mechanism provided President Bouteflika with recommendations for dealing with disappearances. One recommendation was that, for cases documented in the Mechanism's files, an indemnity should be paid to the families of the disappeared. According to Ksentini, the Mechanism had files on 5,000 such cases, although SOS Disparus, a local NGO, claimed in September 2004 that the Mechanism only had 300 files, despite the large numbers of disappearances and records maintained by local NGOs. In March, the Mechanism submitted its final, but not publicly released, report on the current human rights situation and recommendations to the president.

Local and international human rights NGO groups criticized the Mechanism for its ineffectiveness during its 18-month mandate. In its 2005 report, AI asserted that the Mechanism lacked professionalism and independence. In June, Human Rights Watch (HRW) said the Mechanism had done little to advance the causes of truth and justice. NGOs were neither invited to give any input related to its creation nor consulted for recommendations, although the Mechanism has met, on a case-by-case basis, with individual NGOs that requested a meeting, including AI and HRW. According to NGOs, the Mechanism, established, funded, and staffed by the government, could not provide any guarantee of its independence and impartiality. While most families of disappeared generally welcomed indemnity, they as well as local and international NGOs continued to demand that the government make greater efforts to locate the remains of the missing, investigate disappearances, determine responsibility, and hold perpetrators accountable.

No reported prosecutions of security force personnel stemmed from these cases. According to some local NGOs, the government has refused to investigate cases to avoid the possibility of criminal charges against security forces or other government officials. For courts to hear charges of disappearance, the law requires at least two eyewitnesses. Courts have therefore refused to consider cases where a family member, as a single eyewitness to an abduction, had identified specific policemen as the abductors.



The government asserted that the majority of reported disappearances either were committed by terrorists disguised as security forces or involved former armed Islamist supporters who went underground to avoid terrorist reprisals. However, there is no evidence that the government investigated any of the 5,200 cases that it acknowledged were caused by security forces. Ksentini stated on several occasions that any security force involvement in the disappearances was the result of individuals operating outside the scope of their superior's orders and without instruction from any specific state institution. While acknowledging the government's responsibility to protect its citizens, Ksentini said the Mechanism would forward evidence of criminality to the judiciary for prosecution but had not yet done so because there was not enough evidence in any case.

The government also placed restrictions in 2003 on the international NGO Freedom House's efforts to investigate cases of disappeared persons. The government required Freedom House to submit its proposed activities in advance for governmental approval. Government officials said technical assistance was welcomed, but no political activities would be allowed. As a result, a proposed international conference on the disappearances organized by the Human Rights League and the NGO SOS Disparus was not allowed to proceed. The government also denied visas to Freedom House associates, causing some events to be cancelled.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Both the constitution and Legal Code prohibit torture and other cruel, inhuman, or degrading treatment or punishment; however, there were reports by AI and Algeria Watch that government officials employed such practices.

Although the Penal Code prohibited torture, legislation enacted in September 2004 criminalized torture, and government agents now face prison sentences for up to three years for committing such acts. Impunity remained a problem (see section 1.d.).

According to human rights lawyers the incidence and severity of torture is on the decline due in part to better training of the security forces and alternative intelligence gathering techniques. However, they maintained that torture still occurred in military prisons, more often against those arrested on "security grounds." In May, AI reported that the "chiffon" method—stuffing a rag into someone's mouth while forcing contaminated liquids into the victim's stomach until he or she vomits, while at the same time making it almost impossible to breathe—was the preferred method of torture because it left no physical traces of assault.

Seven gendarmes were in detention in a military prison in Blida awaiting trial on charges of torture and maltreatment.

In May 2004, 24 adolescents were arrested in T'kout following demonstrations protesting the death of Chouaib Argabi (see section 1.a.). Six of the adolescents told their lawyer that they had been tortured and sexually abused by the gendarmerie during their detention. Their attorney, Salah Hanoun, claimed in the press that he saw physical proof of mistreatment, which included burns and bruises, and took photographs. During their trial, defense lawyers raised the issue of torture, but the judge refused to permit any discussion of the matter. Most of the accused spent at least five months in prison but received a presidential pardon in 2004. All 24 adolescents have since been released.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards; however, while the government permitted visits by independent human rights observers, including the International Committee of the Red Cross (ICRC) and the Red Crescent, to regular, non-military prisons, it continued to deny visits to its military or high security prisons and detention centers. During the year, UN Development Program (UNDP) noted improved conditions in civilian and low security prisons as a result of prison reform. The UNDP also worked with the government to improve educational programs in prisons, allowing 233 prisoners during the year to earn their high school diploma through classes held in prisons, as part of prison reform efforts begun in 2004.

Overcrowding and insufficient medical treatment also remained problems. A privately-owned newspaper reported there was 1 doctor for every 300 prisoners, and the quality of the health units improved during the year. In October 2004, the ICRC visited civilian prisons and pretrial detention centers but was still barred from the country's military and high security prisons and detention centers.

Hunger strikes were held in several prisons throughout the country in protest over the length of pretrial detentions.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, in practice the security forces continued arbitrarily to arrest and detain citizens, although reportedly less frequently than in previous years.

*Role of the Police and Security Apparatus.*—The national police or General Directorate for National Security falls under the control of the Ministry of Interior. The Gendarmerie, under the Ministry of Defense, also perform police-like functions throughout the country. Police were generally effective at maintaining order throughout the country. Low levels of corruption did exist, especially in the Customs Police.

The government stated in 2003 that, as a matter of policy, disciplinary action will be taken against soldiers or police found guilty of violating human rights, but impunity remained a problem. The government did not provide disaggregated public information on the numbers, infractions or punishments of police, military, or other security force personnel. In January, all security forces were provided for the first time with a copy of the code of conduct, establishing regulations for conduct and sanctions for abuses, as part of human rights training. According to human rights attorneys, police officials, and local NGOs, the largest single abuse of police authority occurred as a result of officers not following established guidelines for arrests.

*Arrest and Detention.*—Police must obtain a summons from the prosecutor's office in order to require a suspect to appear in a police station for preliminary questioning. Summons are also used to notify require the accused and/or the victim(s) to attend a court proceeding or hearing.

The government issues warrants under three different circumstances: to bring an individual from work or home to a court; to execute a prosecutor's approved request to place a person into custody pending trial; or to arrest a suspect considered to be a flight risk. Police may make arrests without a warrant if they witness the offense taking place. Summons are generally issued when the case is ready for trial, whereas warrants are issued before the case comes to court.

The constitution requires that a suspect may be held in detention for up to 48 hours without charge. If more time is required for gathering additional evidence, the police may request the prosecutor extend the suspect's detention to 72 hours. In practice, the security forces generally adhered to the 48-hour limit in non-terrorism cases.

Persons accused of acts against the security of the state, including terrorism, may be held in pretrial detention no longer than 20 months, according to the Code of Penal Procedure; however, the prosecutor must show cause every 4 months for continuing pretrial detention.

Prolonged pretrial detention remained a problem. A suspect may be held in preventive detention for 4 months with extensions not to exceed 12 months, according to Article 125 of the Code of Penal Procedure. The prosecutor must show cause every four months to continue the pretrial detention. Judges rarely refused prosecutor requests for extending preventive detention. Detention can be appealed to a higher court, but is rarely overturned. If the detention is overturned, the defendant can request compensation. According to the Minister of Justice, prosecutors sometimes abused investigative detention.

Detainees in pretrial detention must be informed of their right to communicate immediately with family members, receive visitors, and to be examined by a doctor of their choice at the end of their detention. However, there have been frequent reports that these rights were not extended to detainees.

There were political detainees; several journalists were detained without charge for lengthy periods before trial for defamation against government officials. In June, journalist Ahmed Benaoum, who was charged with embezzlement of public funds, was released after 11 months in pretrial detention.

In other instances, pretrial detention was less prolonged. Student Merzouk Hamitouche was arrested in December 2004 for destruction of public property and remained in pretrial detention for one month before his trial. He was found guilty and sentenced to three months in jail; however, his sentence was reduced to probation on appeal.

Dr. Kamel Ferkar was arrested October 31, 2004 following an October 13, 2004 demonstration. He was held without charge until November 8, 2004, when he was charged with unauthorized gathering, destruction of public goods, possession of a weapon, and obstruction of a public road. He was held in pre-trial confinement until March 12 when he was found guilty and condemned to five months in prison and a \$40 (3000 dinars) fine.

There is no system of bail, but in non-felony cases suspects are usually released on "provisional liberty" while waiting for their trial. Under provisional liberty, suspects are required to report weekly to the police station of their district and are forbidden from leaving the country.

Local prosecutors are required to grade the performance of police captains operating in their jurisdiction to ensure that they comply with the law in their treatment of suspects. Police captains subsequently grade their officers. In addition, any

suspect can request a medical examination once on police premises or before facing the judge.

*Amnesty.*—From April 2004 to July 2005, President Bouteflika issued a blanket presidential pardon to 18,126 prisoners convicted of petty crimes.

*e. Denial of Fair Public Trial.*—Although the constitution provides for an independent judiciary, executive branch decrees and influence, in practice limited the independence of the judiciary. However, during the year the government made historic strides towards reforming the judiciary. The government launched an investigation into judicial corruption. Forty magistrates were investigated, three of whom were detained pending the investigation's conclusion. In September Justice Minister Tayeb Belaiz publicly announced that 60 magistrates had been fired because "of reprehensible acts". In the same month, 21 magistrates appeared before the High Council of Magistrates for disciplinary sanctions, which could range from expulsion to transfers.

The judiciary is composed of the civil courts, which hear cases involving civilians facing charges not related to security or terrorism; and the military courts, which can also hear cases involving civilians facing security and terrorism charges. Regular criminal courts can try cases involving security-related offenses at the local level.

The nine-member Constitutional Council reviews the constitutionality of treaties, laws, and regulations. Although the council is not part of the judiciary, it has the authority to nullify laws found unconstitutional, to confirm the results of any type of election, and to serve as the final arbiter of amendments that pass both chambers of the parliament before becoming law. Since May 1, the council functioned without a president.

*Trial Procedures.*—Most trials are public and non-jury. Defendants are presumed innocent, have the right to be present and to consult with an attorney, provided at public expense if necessary. Defendants can confront or question witnesses against them or present witnesses and evidence on their behalf. Defendants also have the right to appeal, and the testimonies of men and women have equal individual weight.

Government authorities did not always respect all legal provisions regarding defendants' rights, and they continued to deny due process. Women were denied equal rights before the law due to the court's application of the Family Code, based on Shari'a (Islamic law). However, the situation improved during the year with the liberalizing reforms to the Family Code and passages of the new Nationality Code giving women the right to transmit nationality in their own right and to marry non-Muslims. Defendants and their attorneys were sometimes denied access to government-held evidence relevant to their cases.

There are four military tribunal courts, in Oran, Blida, Constantine, and Bechar. These courts try cases involving state security, espionage, and other security-related offenses involving military personnel and civilians. Each tribunal consists of three civilian judges and two military judges. Although the president of each court is a civilian, the chief judge is a military officer. Defense lawyers must be accredited by the military tribunal to appear. Attendance of the public at the trial is at the discretion of the tribunal. Appeals are made directly to the Supreme Court. The military tribunals tried cases during the year, but no specific information was available.

*Political Prisoners.*—There were political prisoners, namely journalists serving prison sentences for defamation against government officials (see section 2.a.).

In February, the Superior Council of Judges permanently dismissed and disbarred Judge Mohamed Ras El Ain at a disciplinary hearing. Judge Ras El Ain was not afforded due process during the trial. Human rights lawyers and local and international press reported that he was brought up on disciplinary charges for criticizing the politicization of the judiciary and an October 2003 court decision preventing oppositionists within the National Liberation Front from holding a party congress.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions; in practice, however, government authorities at times infringed on citizens' privacy rights. The government actively monitored the communications of political opponents, journalists, human rights groups, and suspected terrorists (see Section 4).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and press; however, in practice, the exercise of these rights was restricted.

Individuals can generally criticize the government privately and publicly without reprisal. However, citizens are less inclined to criticize the government in public. Political meetings are usually monitored.

Government pressure on the press markedly increased during the year. The government's use of defamation laws to harass and arrest journalists, its closure of two newspapers for debts to the state-owned printing house, and its continued grant of an advertising monopoly to the state-owned advertising agency intimidated papers into practicing self-censorship. As long as the press refrained from what government authorities might consider "insults" to the honor and dignity of individuals, it remained able to criticize government shortcomings and report some criticism of the government, including failure to address social and economic issues, lack of transparency, and government actions against the press. However, the press faced significant repercussions from the government for personal attacks on government officials.

The law specifies that freedom of speech must respect "individual dignity, the imperatives of foreign policy, and the national defense." The state of emergency decree gives the government broad authority to restrict these freedoms and to take legal action against what it considers to be threats to the state or public order. These regulations were heavily applied throughout the year, and in some instances the government targeted specific media organizations and their staff. In a July press conference in Algiers, the NGO International Federation of Human Rights Leagues said that the government repressed the press.

The country's non-state owned print media consisted of more than 45 publications that supported or opposed the government to varying degrees; only 6 newspapers' circulation exceeded 10 thousand copies. In addition, two French-language papers and two Arab speaking papers are owned by the state. Many parties, including legal Islamic political parties, had access to the independent press, and made use of it to express their views. Opposition parties also disseminated information via the Internet and in communiqués.

Government economic leverage was considerable. All newspapers are printed at government-owned presses, and the government continued to exercise pressure on the independent press through the state-owned advertising company, Agence Nationale d'Édition et de Publicité (ANEP), which decided which independent newspapers could benefit from advertisements placed by state-owned agencies and companies. ANEP, and therefore the government, controlled the largest source of income for newspapers.

Most independent newspapers continued to rely on the government's four publishers for printing presses and newsprint. In July 2004, SIMPRAL, the Algiers-based government publisher, stopped printing *Le Matin* for its failure to pay a debt of \$512,533 (38 million dinars). The paper went bankrupt and the building was sold in 2004.

In February, the government prevented the importation of the weekly French magazine *L'Express* due to an article entitled "Networks in Algeria" covering the resurgence of some traditional structures such as the *zaouias* (religious brotherhoods), regional tribes and some business groups. In March, the government prohibited the distribution of the weekly magazine *L'Intelligent* because of an article critical of the government's ineffectiveness in resolving the issue of the disappeared. The December issue of the same publication was seized December 25 and not distributed because it contained an interview with the former Islamic Salvation Army chief Madani Mezrag in which he confessed to having killed persons prior to the adoption of the 1999 Civil Concord.

The law permits the government to levy fines and jail time against the press in a manner that restricts press freedom. The most common form of harassment was through the use of defamation laws. The Penal Code imposes high fines and prison terms of up to 24 months for defamation or "the insult" of government figures, including the president, members of parliament, judges, members of the military and "any other authority of public order." Those convicted face prison sentences that range from 3 to 24 months and fines of \$675 to \$6,750 (50,000 to 500,000 dinars). During the year, 11 journalists were sentenced to jail terms for defamation, some of whom were previously convicted of offenses in 2004. Farid Allilat (1 year), Ali Dilem (1 year), Djameleddine Benchenouf (3 months) and Abrous Outoudert (6 months) from *Liberté*; Fouad Boughanem (1 year), Reda Belhajouja (6 months), Nacer Belhajouja (6 months), Kamel Amarni (1 year) and Malika Boussouf (6 months) from *Le Soir D'Algérie*; Youcef Rezzoug (3 months), Yasmine Ferroukhi (3 months), Abba Cherif (2 months), Hassane Zerrouky (2 months) and Badis Massoui (2 months) from *Le Matin*; Salima Tlemcani from *El Watan*; and Abder Bettache (2 months), Ghanem Khemis (2 months) and Abdelkader Djemaa (2 months) from *El*

*Youm* were all convicted on defamation charges during the year and were free pending appeal.

From 2001 to 2004, the government prosecuted at least 10 journalists under the Penal Code. Djamel Benchenouf, Farid Allilat, and Ali Dilem from *Liberté*; Mohamed Benchicou and Sid Ahmed Semiane from *Le Matin*; Hafnaoui Ghoul of *Djazair News*; and Ali Boughanem, Mohamed Bouhamidi, and Kamel Amarni from *le Soir d'Algerie* were all charged for defamation and received sentences ranging from 2 months to two years.

In 2004, Mohamed Benchicou, the managing editor of the opposition paper *Le Matin* and author of a book critical of the president, *Bouteflika—An Algerian Impersonation*, was convicted of violating foreign exchange controls in attempting to sell the book. He was fined 200,000 euros and sentenced to two years in prison. The sentence was upheld on appeal and his fine was tripled. He was also convicted on one count of defamation and ordered to pay a fine of \$675 (50,000 dinars). Various international actors, including the EU Parliament, denounced his detention on the one-year anniversary of his incarceration. In July, Benchicou's lawyers confirmed that his appeal file was lost by the Supreme Court. In August, after the file was found, Benchicou appealed the defamation charge. At year's end, there were still nine cases of defamation against Benchicou. In four cases, he was charged on the basis of his own writings; for the other five, he was charged as editor in chief of the newspaper *Le Matin*. Benchicou has appealed all cases.

The government continued restrictions on the international media's coverage of issues relating to "national security and terrorism." In 2003, the government deported four journalists for their coverage of released political prisoners Ali Belhadj and Abassi Madani. The government threatened similar action against others who violated the guidelines of the Ministry of Communication communiqué forbidding media coverage of the prisoners' release (see Section 1.d.).

Radio and television are government-owned, with coverage favorable to government policy. Presidential candidates received equal amounts of time on the state-owned radio and television channels during the three-week official campaign season prior to the April 2004 elections. However, both before the official campaign and in the period following the elections, opposition candidates were generally denied access to the public radio or television. Additionally television access was still severely limited for some opposition parties. These limitations were less evident for radio.

Satellite dish antennas were widespread.

During the year the government increased access for print and broadcast media for Tamazight (Berber language) and Amazigh culture, building on advances made in 2004. In addition, Tamazight programming increased on the non-Berber channels, as well as advertisements in Tamazight on all television and radio channels. In September, the *wilaya*, or province, of Bouira welcomed the first national book fair in Tamazight.

Some restrictions remain in place on the international media, limiting its ability to report freely. Al-Jazeera's office has been closed since 2004. The accreditation of a photographer from Agence France Presse was refused. Teams from Al-Hurra and Dubai TV did not receive permission to film a documentary. Ahmed Megaache from Al-Arabia and Ait Larbi from Le Figaro have yet to receive accreditation. In November, a team from Berber TV assigned to cover elections in Kabylie had difficulties taking possession of their video equipment at the Port of Algiers.

The government limited academic freedom. While a growing number of academic seminars and colloquiums occurred without governmental interference, there were extensive delays in issuing visas to international participants and instances where international experts were denied entrance (see section 4).

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association; however, the exercise of these rights was severely restricted in practice.

*Freedom of Assembly.*—Although the constitution, under Article 41, provides for the right of assembly, the emergency law and government practice continued to sharply curtail this right. A decree issued in 2000 continued to ban demonstrations in Algiers. Citizens and organizations were required to obtain permits from their appointed local governor before holding public meetings. The government frequently granted licenses to political parties, NGOs, and other groups to hold indoor rallies, although licenses were often granted on the eve of the event, thereby impeding publicity and outreach. During the year, the Algerian League for the Defense of the Rights of Man (LADDH) could not hold meetings outside its headquarters without the governor's permission, which was rarely granted, greatly hampering the League's human rights efforts. Groups opposing the Charter on Peace and Reconciliation also had difficulties securing permission to hold public gatherings.

The government broke up numerous marches, protests, and demonstrations during the year outside the capital. In January and February, demonstrations in Djelfa, Mascara, Kherrata, Ain Abid, Maghnia, Tiaret, and Bouira protested the rise in gas prices. Some security force personnel and demonstrators were injured during the protests, and some demonstrators were arrested or detained. In July there was a wave of protests in the south in response to government corruption, power outages and sanitation problems. When security forces were unable to control the crowd, tear gas was used, and one woman with asthma died as a consequence.

In May, a protest in Algiers against the government's failure to resolve the issue of disappeared persons took place in front of parliament and was allowed to continue until protesters returned home peacefully. The organizers maintained, however, that the police prevented families from other provinces from participating.

In Algiers, every Tuesday morning throughout the year families of the disappeared staged a sit-in before the government's human rights ombudsman, the National Consultative Commission for the Promotion and Protection of Human Rights. The police did not intervene to break up the demonstrators, the majority of whom were older women.

*Freedom of Association.*—The constitution provides for the right of association; however, the emergency law and government practice severely restricted this right in practice. The interior ministry must approve all political parties before they may be established (see section 3). The government restricted the registration of certain NGOs, associations, and political parties on "security grounds," but declined to provide evidence or legal grounds for refusing to authorize other organizations that could not be disqualified under articles pertaining to national security. The government frequently failed to grant official national recognition to NGOs, associations, and political parties in an expeditious fashion. The NGO SOS Disparus, as well as the Democratic Front of Sid-Ahmed Ghazali and the Wafa party of Ahmed Taleb Ibrahim are still not officially recognized.

The government issued licenses to domestic associations, especially medical and neighborhood associations. In 2004, the interior ministry reported that many inefficient associations, especially cultural ones, ceased to exist due to poor management, poor finances, and lack of interest. Youth, medical, literacy, and neighborhood associations continued to benefit from government support and the interest of members. The interior ministry regarded those organizations unable to attain government licenses as illegal. Domestic NGOs confronted bureaucratic obstacles when receiving support from abroad.

The Southern Movement for Justice (SMJ) was organized in March 2004 with the objective of creating political awareness for politicians to address the south's high rates of poverty, illiteracy, and unemployment. In October 2004, the government arrested 10 SMJ delegates for organizing meetings of a non-recognized association following two peaceful protests. Some received six months in prison and have since been released; others received six months' probation.

The ministry may deny a license to, or dissolve, any group regarded as a threat to the government's authority, or to the security or public order of the state. After the government suspended the parliamentary election in 1992, it banned the FIS as a political party as well as social and charitable groups associated with it (see section 3). Membership in the FIS, although a defunct organization, remained illegal. The Islamic Workers Union was banned in the 1990s and officially dissolved during the year (see section 6.a.).

The government took significant steps during the year to defuse tensions with the Kabylie and address the concerns of regional leaders. In particular, Prime Minister Ahmed Ouyahia reached agreement on a number of Kabylie grievances with Arouch leader Belaid Abrika, who had been physically assaulted during a public protest rally and seriously injured in 2003 by members of government security services. The accord addressed economic and social concerns and made possible regional elections in November.

*c. Freedom of Religion.*—Article 2 of the constitution declares Islam to be the state religion. There are restrictions on public assembly for purposes of practicing a faith other than Islam without a license, prohibitions on proselytizing of citizens by foreigners, and controls on the importation of religious materials. In practice, the government restricted religious freedom.

The government requires organized religions to obtain official recognition prior to conducting any religious activities. The Protestant, Roman Catholic, and Seventh-day Adventist churches are the only non-Islamic faiths authorized to operate in the country. Members of other denominations, particularly Methodists, were forced to operate without government permission or register as a part of the Protestant Church. According to the Ministry of Religious Affairs, the Ministry of Interior is

responsible for determining the penalties for those practicing a non-recognized religion; however, in practice, non-recognized religious group meetings were largely tolerated.

Islamic law (Shari'a) does not recognize conversion from Islam to any other religion; however, in cases of conversion the government applies civil law, where conversion is not illegal. There are no specific laws against Muslim citizens proselytizing non-Muslims; however the government considers the proselytizing of Muslim citizens by non-Muslims a subversive activity. The government restricted the importation of religious literature, including Islamic literature, intended for widespread distribution, although it did not restrict such materials for personal use. Over the last few years, non-Islamic religious texts and music and video selections have become easier to locate for purchase. The government-owned radio station provided broadcast time to a Protestant and Catholic radio broadcast. The government prohibited the dissemination of any literature portraying violence as a legitimate precept of Islam.

The ministries of education and religious affairs strictly require, regulate, and fund the study of Islam in public schools. The government monitored activities in mosques for possible security-related offenses, barred their use as public meeting places outside of regular prayer hours, and convoked imams to the Ministry of Religious Affairs for "disciplinary action" when deemed appropriate. The Ministry of Religious Affairs provided financial support to mosques and paid the salaries of imams; the ministry also trained and regulated the appointment of imams, and the law allows it to pre-screen religious sermons before they are delivered publicly (see section 2.a.). However, the ministry rarely interferes with sermons beyond an advisory capacity. The government monitors all Koranic schools to prevent extremist teachings.

The Penal Code provides prison sentences and fines for preaching in a mosque by persons who have not been recognized by the government as imams. Persons (including imams recognized by the government) were prohibited from speaking out during prayers at the mosque in a manner that was "contrary to the noble nature of the mosque or likely to offend the cohesion of society or serve as an apology for such actions." The Ministry of Religious Affairs controlled Islamic sermons during the violence between Islamists and the government during the 1990s, and those restrictions largely remained in place.

*Societal Abuses and Discrimination.*—There were no anti-Semitic incidents during the year, although anti-Semitic political commentary and cartoons appeared periodically in the Arabic-language press without government response. The government did not promote tolerance or anti-bias education, and there is no hate crime legislation. The country's Jewish population numbered approximately 60 persons.

The country's decade-long civil conflict has pitted self-proclaimed radical Muslims belonging to the Armed Islamic Group and its later offshoot, the Salafist Group for Preaching and Combat, against moderate Muslims. Radical Islamic extremists have issued public threats against all "infidels" in the country, both foreigners and citizens. As a rule, the majority of the country's terrorist groups did not differentiate between religious and political killings.

Following the issuance of an announcement by the authorities warning against such behavior, the tribunal of Bejaia sentenced six young persons in October to 3 to 6 months in prison for having eaten in an "ostentatious way" during daylight hours in the Muslim fasting month of Ramadan.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of domestic and foreign travel, and freedom to emigrate; however, the government restricted the exercise of these rights. The government did not permit young men who are eligible for the draft and who have not yet completed their military service to leave the country without special authorization; however, such authorization may be granted to students and to those persons with special family circumstances.

Under the state of emergency, the interior minister and the provincial governors may deny residency in certain districts to persons regarded as threats to public order. The government also maintained restrictions for security reasons on travel into the four southern provinces of Ouargla, El-Oued, Laghouat, and Ain-Salah, where much of the hydrocarbon industry and many foreign workers were located.

Armed bandits and terrorists intercepted citizens at roadblocks, often using stolen police uniforms and equipment to rob them of their cash and vehicles. On occasion, armed groups killed groups of military and civilian passengers at these roadblocks (see section 1.a.).

The Family Code does not permit any females younger than 18 years of age, or children, to travel abroad without their guardian's permission (see section 5).

The law does not provide for forced exile, and it was not known to occur.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and asylum. There were no reports of the forced return of persons to a country where they feared persecution. The government provided temporary protection to upwards of 100,000 refugee Sahrawis, former residents of the Western Sahara who left that territory after Morocco took control in the 1970s. The Office of the UN High Commissioner for Refugees (UNHCR), the World Food Program, the Algerian Red Crescent, and other organizations assisted Sahrawi refugees. The government cooperated with UNHCR and other humanitarian organizations in assisting refugees.

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

Article 10 of the constitution provides citizens with the right to change freely their government, and citizens exercised this right in 2004 through a free, transparent, and multi-party presidential election held on the basis of universal suffrage. The constitution mandates presidential elections every five years.

*Elections and Political Participation.*—For the first time since the end of the one-party system and after more than a decade of civil strife and continuing acts of terrorism, a sitting president not only completed his five-year term of office, but was re-elected in a contested election. However, the election and the electoral system were not without flaws. President Bouteflika was re-elected in April 2004 to a second term, winning approximately 85 percent of the vote, according to the official results. Voter participation was 58 percent, compared to 46 percent in the 2002 legislative elections.

Unlike previous elections, there was marked improvement towards a more free and transparent electoral process. The military was generally neutral in the election, upholding the Armed Forces chief of staff's promise not to intervene and abiding by a January 2004 electoral reform law that eliminated the practice of voting in barracks a day before the "general vote." Six candidates representing parties with a wide-range of political views participated, and they were able to campaign publicly on television and radio. A woman also ran for president for the first time in the country's history. Unlike in 1999, the candidates did not drop out on the eve of the election; and for the first time, candidates and party representatives were able to review the voter lists prior to the election. The lists were made available to the heads of political parties on CD-ROM, reducing the possibility of election fraud. An election observer from the Organization for Security and Cooperation in Europe stated in a press conference that the election was generally free and fair, though not without flaws.

Problems with the electoral system persisted. The Administrative Court of Algiers was criticized among the country's political class and independent media for having invalidated the National Liberation Front's Eighth Party Congress. The invalidation was viewed as politically motivated and a setback to the president's main opponent, former Prime Minister and FLN Secretary-General Ali Benflis, because the party representatives chosen during the Eighth Party Congress were Benflis supporters. The invalidation also froze the FLN's bank accounts, which became accessible only after the election of the new Secretary General on February 1.

Opposition candidates also complained that the Ministry of Interior regularly blocked registered parties from holding meetings; denied them access to larger and better equipped government conference rooms; and pressured hotels into not making conference rooms available, while facilitating the activities of the pro-Bouteflika FLN. According to the Constitutional Council, which validates election results and determines whether candidates meet all the requirements, three potential candidates did not receive sufficient numbers of signatures for placement of their names on the ballot. Two candidates claimed the Council's invalidation of their signatures was politically motivated, but they were unable to provide any evidence of fraud. Opposition candidates had access to the state-controlled media during the official three-week election campaign period, but not before or after the campaign.

Additionally, opposition candidates, primarily the (Islamist) "Movement for National Reform," expressed concern over potential tampering of the voter lists. Candidates filed numerous complaints that the lists were disorganized, unusable, and inflated. The Electoral Commission made hundreds of corrections in a voter registra-



tion based on 191 complaints. During the year the government welcomed the recommendations of the International Foundation for Election Systems (IFES) to correct voting problems; but it only partially implemented the recommendations, before the elections.

The country has a bicameral parliament consisting of the 389-seat National People's Assembly (lower house) and the 144-seat Council of the Nation (upper house or Senate). All members of the Assembly are elected by popular vote to five-year terms. In the council, two-thirds of the members are elected by the regional assemblies (the Popular Communal Assemblies and the Popular State Assemblies), and the remaining one-third is appointed by the president; all members serve six-year terms, and the constitution requires that half the elected portion of the council and one-third of the appointed portion be replaced every three years. The constitution provides the president with the authority to rule by executive order in special circumstances. In cases when parliament is not in session, the president has the right to legislate by executive order. However, he must submit the executive order to parliament for approval upon its return, first to the Assembly then to the Council of the Nation. If the Assembly disapproves the executive order twice, the president must dissolve the Assembly. Assembly elections were held in 2002, and indirect elections for the Council of the Nation were held in 2003.

The law requires that potential political parties receive official approval from the interior ministry to be established. To obtain approval, a party must have 25 founders from across the country whose names must be registered with the interior ministry. The government has refused to register two parties: Wafa, because of its perceived ties to the banned FIS party constituted a threat to national security, according to the minister of interior; and the Front Democratique because it received no official response on its registration request. It was unclear why there was no response, but the party leadership claimed the government was not ready for "real democratic openness." No party may use religion, Amazigh heritage, or Arab heritage as a basis to organize for political purposes. The law also bans political party ties to nonpolitical associations and regulates party financing and reporting requirements.

In 2003, indirect elections for 48 seats of the Council of the Nation (upper house) were held. For the first time members from Islamic parties were elected to the council.

Thirty-two women served in senior positions in the executive and legislative branches. There were three women in the cabinet: as minister of culture; and as minister delegates for family and female condition, and for scientific research. Women also held 24 of the 389 seats in the Assembly and 4 of the 144 seats in the Council of the Nation. A woman led the Workers' Party, and all the major political parties, except the Islah Party, had women's divisions headed by women during the 2003 legislative elections.

The ethnic Amazigh minority of about nine million centered in the Kabylie region participated freely and actively in the political process and represented one-third of the government. However, Amazigh protests and boycotts surrounding the 2003 and the April 2004 elections underscored the economic and social neglect felt by many in this community, which makes up nearly one-third of the overall population.

*Government Corruption and Transparency.*—Corruption in the executive and legislative branches of government continued to be a serious problem. There are anti-corruption regulations in the Penal Code that call for prison sentences of up to 2 years and increase progressively up to 10 years' imprisonment for high executives; however, the regulations were not widely implemented.

During the year, President Bouteflika declared publicly that corruption would not be tolerated and launched a nationwide crackdown. On April 26, an Algerian criminal tribunal found Bachir Frik, Wali of Oran and Cheikh Tayeb Laoufi, former Director of the Real Estate Development Agency in Oran guilty of corruption. Both were sentenced to 8 years in prison and fined \$7,065 (500,000 dinars). On the same day, Hacene Baalas, Director of Commercial Real Estate, was sentenced to 5 years in prison and fined \$2,826 (200,000 dinars) for corruption. In addition, on May 10 Ahmed Bouricha, Wali of Blida, was forced to resign his position after being implicated in real estate corruption. He was under investigation at year's end. Customs Director General Sid Ali Lebib reported that since 2001, hundreds of custom officers have been charged with infractions, seven of whom were senior officers. These senior officers were dismissed for corruption and embezzlement, and scores of the other charged customs officers received prison terms of unspecified length.

On January 25, parliament approved an anti-corruption law brought about in part by the requirements of the country's free trade agreement with the European Union. The law established the creation of an organization to oversee the implementation of the national strategy against corruption. Since the initial parliamentary approval

of the law, article seven, which required elected and senior officials to declare their assets and, in certain cases, could lead to the lifting of parliamentary immunity, has been removed. The modification came at the insistence of parliamentarians who argued that the existing penal code was sufficient to punish corruption offenses and that the decision to lift parliamentary immunity should solely reside with parliament.

Lack of government transparency remained a serious problem. For example, parliamentary debate on the proposed corruption law disclosed that 80 percent of government officials did not declare their wealth. Many government economic statistics were not released to the public. However, some ministries have recently established public Web sites containing government information. Some Web sites are better than others; all ministries are now required to establish Web sites and update them on a regular basis.

In August the Ministry of Justice launched two Web sites to inform citizens of their rights. The first Web site lists addresses of all courts and tribunals, a review of current legal news, practical information on ways of obtaining a citizenship certificate, and information on bail, legal assistance and criminal records. The second Web site provides information on Algerian law and legislation, to include draft laws, constitutional rights and amended laws.

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

The government interfered with some domestic and international human rights groups which were trying to investigate and publish their findings. The government continued to harass local NGOs, and impeded the work of international NGOs. While some human rights groups, including the Algerian League for Human Rights and the Algerian League for the Defense of Human Rights, were allowed to move about freely, the most active and visible organizations reported interference by government authorities, including surveillance and monitoring of telephone calls (see Section 1.f.). Domestic NGOs must be licensed by the government and are prohibited from receiving funding from abroad without approval from the minister of solidarity. Approximately 100 unlicensed NGOs operated openly. Some women's advocacy groups and charity organizations for women were not officially recognized but still operated, organizing seminars and distributing pamphlets and other means of support. Although international NGOs continued to experience delays in obtaining visas, outright refusals were rare.

The most active independent human rights group was the Algerian League for the Defense of the Rights of Man (LADDH), an independent organization that had members throughout the country; however, the LADDH was permitted neither access to government officials for human rights advocacy or research purposes, nor to prisons, except for normal lawyer-client consultations.

The less active Algerian League for Human Rights (LADH) is an independent organization based in Constantine. LADH has members throughout the country monitoring individual cases.

During the year, the government took steps to improve access to the country for international NGOs. Visits by international human rights NGOs occurred both at the invitation of the government and independently, although, some NGOs experienced long visa delays. Representatives of Amnesty International, Human Rights Watch, Solidarity Center, International Foundation for Election Systems, Fund for Global Rights, Freedom House, the International Federation of Human Rights Leagues, American Bar Association, Internews, Creative Associates, Arab Civitas, and National Democratic Institute visited throughout the year. Some international NGOs that experienced visa delays due to past critical reports were eventually granted visas.

The ICRC has full access to civilian prisons and pre-trial detention centers; however, it has not been granted access to the country's military or high-security prisons (see section 1.c.).

During the year, the government invited the UN special rapporteur on freedom of expression and the UN special rapporteur on violence against women to visit. However, the government continued to deny requests for visits from the UN Working Group on Enforced or Involuntary Disappearances, the UN special rapporteur on torture, and the UN special rapporteur on extra-judicial executions. The UN rapporteur on the freedom of religion was last allowed to visit in 2002.

The government-established Consultative Commission for the Protection and Promotion of Human Rights is the government's ombudsman for human rights. Directed by Farouk Ksentini, the commission composed of 45 members, 22 of whom belonged to governmental bodies and 23 of whom come from civil society and NGOs. The nongovernmental members included representatives of Islamic religious organi-

zations, the Red Crescent Society, and women's rights advocacy groups. The president approves nominees, and the commission's budget and secretariat come from his office. The commission is mandated to report on human rights issues, coordinate with police and justice officials, advocate domestic and international human rights causes, mediate between the government and the population, and provide expertise on human rights issues to the government.

In 2003, the president announced the creation of a government commission dedicated to the issue of the disappeared and named Farouk Ksentini to head the body, which would serve as an "Ad Hoc Mechanism" between the families of the disappeared and the government (see section 1.b.). Both the CNCPPDH and the Ad Hoc Mechanism were perceived to be government-influenced and not effective, lacking investigative or enforcement powers. Their reports go directly to the president and are not made public. On March 31, Ksentini issued a final report on the "disappeared" to the President; however, the report was not made public, and local and international NGOs were critical of the process. Many of the report's recommendations were incorporated in President Bouteflika's Charter for Peace and National Reconciliation adopted by referendum in September.

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

Although article 29 of the constitution prohibits discrimination based on birth, race, sex, language, and social status, women continued to face legal and social discrimination. Amendments to the Nationality Code and Family Code strengthened women's rights by allowing women to transmit citizenship to a foreign spouse and their children; seek divorce; and retain family property following a divorce.

*Women.*—Spousal abuse occurred, and in practice was prosecuted under Article 264 of the Penal Code, which states that a person must be incapacitated for 15 days or more and present a doctor's note certifying the injuries before filing charges for battery. Because of societal pressures, however, women frequently were reluctant to endure this process. According to a joint study in 2004 by the Ministry of Justice, women's associations, and the National Institute of Public Health, 70 percent of women who suffered abuse refused to lodge a complaint, or follow through with the complaint.

Spousal abuse was more frequent in rural than urban areas and also more frequent among less-educated persons. Spousal rape also occurred. Prison sentences for non-spousal rape range from one to five years; however, there are no specific laws against spousal rape. There are strong societal pressures against a woman seeking legal redress against her spouse for rape, and there were few reports of the law being applied in such cases. However, women's groups have begun to break the taboo of speaking out about violence in the family and held several seminars and conferences during the year.

On January 5, 28 men implicated in the 2001 rape of 39 women in Hassi-Messaoud were tried, and 23 were convicted on the same day. Twenty of the men were convicted in absentia of sexual ill treatment and torture, aggression, forcible entry, and voluntary harm and were sentenced to 20 years; 2 were sentenced to 10 years, and 1 was sentenced to 5 years. The men were originally tried for only theft and aggravated assault; women's groups argued successfully for a change of venue due to influence on the judges, as well as a new trial with the pursuit of rape charges. A sermon by Imam Amar Taleb in 2001 allegedly instigated the attacks. The imam had described the women living on their own in Hassi-Messaoud as women of "easy virtue" and said they should be punished.

SOS Femmes en Detresse and the Wassila Network provided judicial and psychological counseling to abused women. Women's rights groups experienced difficulty in drawing attention to spousal abuse as an important social problem, largely due to societal attitudes. Several rape-crisis centers run by women's groups operated, but they had few resources. The Working Women section of the state union, the General Union of Algerian Workers (UGTA), established a counseling center with a toll free number for women suffering from sexual harassment in the workplace. The center receives a growing number of calls. During the year, the center received 970 calls, compared with 942 in 2004.

The law prohibits prostitution; however, prostitution was reported to be a growing problem, according to the National Institute of Public Health.

Article 29 of the constitution provides for gender equality; however, some aspects of the law and many traditional social practices discriminated against women. The Family Code, adopted in 1984 and amended in February by presidential decree, is based in large part on Shari'a. The Family Code prohibits Muslim women from marrying non-Muslims, although this regulation was not always enforced. Amendments made February 22 to the Nationality Code now allow a woman to marry a foreigner and transmit citizenship and nationality in her own right to both her chil-

dren and spouse. The Family Code does not restrict Muslim men from marrying non-Muslim women. Under both Shari'a and civil law, children born to a Muslim father are Muslim, regardless of the mother's religion. Under the new amendments, women can now seek divorce for irreconcilable differences and violation of the pre-nuptial agreement, among other lesser grounds. In a divorce, the new amendments provide for the wife to retain the family's home until children reach 18 years of age. Custody of the children normally is awarded to the mother, but she may not make decisions on education or take them out of the country without the father's authorization.

The Family Code also affirms the Islamic practice of allowing a man to marry up to four wives. In practice, however, this rarely occurs (about 1 to 2 percent of marriages), and under the amended Family Code, restrictions on polygamy were tightened. Women can now include a "no polygamy clause" in the pre-nuptial agreement, and the husband must obtain a court ruling, usually easy to secure, allowing him to take an additional wife. A wife may sue for divorce if her husband does not inform her of his intent to marry another woman prior to the marriage.

The new amendments to the Family Code in practice vitiated the Shari'a requirement for a male sponsor (*wali*) role and consent to the marriage of a woman, although it has been formally retained. A woman now contracts the marriage, not the *wali*, and she may choose any male that she wishes.

Women suffered from discrimination in inheritance claims. In accordance with Shari'a, women are entitled to a smaller portion of an estate than are male children or a deceased husband's brothers. According to Shari'a, such a distinction is justified because other provisions require that the husband's income and assets are to be used to support the family, while the wife's remain, in principle, her own. However, in practice women do not always have exclusive control over assets that they bring to a marriage or that they earn themselves. Married women under 18 years of age may not travel abroad without permission of their husbands. Married women may take out business loans and use their own financial resources.

Despite constitutional and legal provisions providing gender equality, women in practice still faced discrimination in employment. Leaders of women's organizations reported that discriminatory violations are common. In November 2004, the government passed an anti-sexual harassment law for the first time. The punishment for sexual harassment is one to two years imprisonment and a fine of \$685 to \$1,370 (50,000 to 100,000 dinars). The punishment is doubled for a second offense. In the capital, there were at least a dozen of known cases reported in the press. There were several persons convicted during the year under the new law.

Social pressure against women pursuing higher education or a career was greater in rural areas than in major urban areas. Girls have a higher high school graduation rate than boys. While the success rate for boys was 36 percent, it was 38.5 percent for girls. Women made up more than half of the university student population; however, women constituted only between 20–23 percent of the work force. Nonetheless, women may own businesses, enter into contracts, and pursue careers similar to those of men. About 25 percent of judges were women, a percentage that has grown in recent years. During the year, two female magistrates, one appointed by President Bouteflika and one elected by her peers, entered the 18-member High Council of Magistrates. In addition, 55 percent of magistrates are women; the latest class of new judges was 50 percent women; and women serve at all levels in the judicial system.

The main goal of the numerous women's rights groups was to strengthen women's rights in the Family Code.

The Ministry Delegate for the Female Condition and for the Family is a government office ensuring the legal rights of women. During the year, the Ministry of Interior added more women to the police force and placed at least one female officer in each precinct to assist women with their abuse claims.

*Children.*—The government was generally committed to protecting the welfare, rights, health and education of children. Child abuse is illegal but continued to be a serious problem. Hospitals treated at least 50 cases of child abuse cases during the year, but many cases went unreported because of familial reticence. LaFOREM, an NGO heavily involved with promoting children's rights and development, established the Observatory for Children's Rights, which tracked abuse claims and offered psychological assistance in abuse cases. As a result, more cases of child abuse and pedophilia were reported. NGOs that specialized in care of children cited continued instances of domestic violence aimed at children, which they attributed to the "culture of violence" developed since the civil conflict of the 1990s and the social dislocations caused by the movement of rural families to the cities to escape terrorist violence. In April a government office reported that in 2004, approximately 4,554 children younger than 16 were abused, of whom 2,306 were hospitalized for injuries

stemming from abuse, 1,386 were victims of sexual abuse, and 53 were victims of incest.

Children continued to be victims of terrorist attacks. On April 7, three GIA terrorists stopped five vehicles at a false road block near Larbaa. The terrorists robbed and shot the occupants of the vehicles, killing seven children. In April, two children and their mother were killed by a homemade bomb.

The government provides free education for children through high school. Free education is compulsory until the age of 16. The most recent figures released by the Ministry of National Education show that in 2004, more than 90 percent of children completed the ninth grade, on average the highest grade level normally attained by students. Boys and girls generally received the same education, although rural girls were slightly more likely to leave school because of familial financial reasons, and sons were often given educational priority.

The government provided free medical care for all citizens, albeit in often rudimentary facilities.

Economic necessity compelled many children to resort to informal employment, such as street vending (see section 6.d.).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and such practices reportedly occurred. The government did not acknowledge trafficking to be a problem. According to the government, in the absence of specific anti-trafficking laws, other laws against illegal immigration, prostitution, and forced labor are used to enforce anti-trafficking standards. No indications existed of official government involvement in trafficking.

According to media reports and a local NGO, forced prostitution and domestic servitude of illegal immigrants from West Africa occurred as immigrants transited through the country seeking economic opportunity in Europe. Official statistical estimates of the severity of trafficking do not exist. No government assistance programs existed for victims, nor did any information campaigns about trafficking. However, several NGOs promoted anti-trafficking campaigns.

*Persons with Disabilities.*—The government did not mandate accessibility to buildings or government services for persons with disabilities. Public enterprises, in downsizing their work forces, generally ignored a legal requirement to reserve 1 percent of jobs for persons with disabilities. Social security provided payments for orthopedic equipment, and some healthcare-oriented NGOs received limited government financial support.

#### *Section 6. Workers Rights*

*a. The Right of Association.*—Workers are required to obtain government approval to form a union, and the government may invalidate a union's legal status if its objectives are determined to be contrary to the established institutional system, public order, good morals or the laws or regulations in force. There were no legal restrictions on a worker's right to join a union. About two-thirds of the labor force belonged to unions. Only a single labor confederation, the General Union of Algerian Workers (UGTA) and its affiliated entities existed. The UGTA includes national unions that are specialized by sector. The law on labor unions requires the labor ministry to approve a union application within 30 days and allows for the creation of autonomous unions, other than those affiliated to UGTA.

The law prohibits discrimination by employers against union members and organizers and provides mechanisms for resolving trade union complaints of antiunion practices by employers. It also permits unions to recruit members at the workplace. Although unions may form and join federations or confederations, in practice, attempts by new unions to form federations or confederations have been obstructed by delaying administrative maneuvers. Since early 1996 the Autonomous Unions Confederation has attempted unsuccessfully to organize the autonomous unions, and it functioned without official status. The law permits unions to affiliate with international labor bodies and develop relations with foreign labor groups. For example, the UGTA is a member of the International Confederation of Free Trade Unions. However, the law prohibits unions from associating with political parties and also prohibits unions from receiving funds from foreign sources. The courts are empowered to dissolve unions that engaged in illegal activities.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to strike, and workers exercised this right in practice, subject to some conditions. The law provides for collective bargaining for all unions, and the government permitted the experience of this right in practice for authorized unions. Under the state of emergency, the government can require public and private sector workers to remain at work in the event of an unauthorized or illegal strike. According to the law on industrial relations, workers may strike only after 14 days of mandatory concilia-

tion or mediation. The government on occasion offered to mediate disputes. The law states that decisions reached in mediation are binding on both parties. If no agreement is reached in mediation, the workers may strike legally after they vote by secret ballot to do so. A minimum level of public services must be maintained during public sector service strikes.

The law provides that all public demonstrations, protests, and strikes must receive prior government authorization. Strikes and labor gatherings occurred throughout the year in various sectors, including the construction, medical, port facility, education, and customs sectors. The 2001 ban on marches, as well as demonstrations, in Algiers remained in effect.

Although the teachers' union Council of Algiers' High Schools and the Autonomous National Council of Secondary and Technical Teachers submitted proper documentation to form a union in 2003, both were still considered illegal unions.

The National Independent Union of Public Administration Personnel (SNAPAP) is an independent union not affiliated with the government. In March, SNAPAP women's group was harassed prior to a meeting in a government building in Annaba. The group held the meeting but maintained that the government censored the planned telecast of the event.

In May 2004, some members of SNAPAP accused the government of staging fraudulent elections to replace the group's secretary general, the third attempt at such a replacement since 2001. The opposing candidate announced, without prior notice, plans for the election to only a few members during a general session. The absent members, who constituted most of the membership, were effectively prevented from casting ballots. Government security personnel were at the election site when the few members present voted the new candidate into office. The Ministry of Interior, which normally does not take positions regarding the leadership of independent unions, issued an official notification informing SNAPAP that the new secretary general was the duly elected candidate. Some members of SNAPAP maintained that the government has involved itself illegally in the group's internal affairs. Thirty-six members of SNAPAP claimed that they have been harassed, intimidated, or involuntarily detained by the government.

In 2004, the International Labor Organization Committee of Experts requested the government take steps through legislation to ensure that no provisions of Legislative Decree 92-03 were applied against workers peacefully exercising the right to strike. The decree defines subversive acts, or acts of terrorism, as those offenses directed against the stability and normal functioning of institutions by any action taken with the intent of "obstructing the operation of establishments providing public service" or of "impeding traffic or freedom of movement in public places." The government did not act, claiming that the decree was not directed against the right to strike or the right to organize and has never been used against workers exercising the right to strike peacefully.

The government eliminated free trade zones in November 2004; labor laws now apply equally throughout the country.

*c. Prohibition of Forced or Compulsory Labor.*—Forced or bonded labor is prohibited by the constitution's provisions on individual rights, and the Penal Code prohibits compulsory labor, including forced or compulsory labor by children. The government generally enforced the ban effectively.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 16 years. Inspectors from the Ministry of Labor supposedly enforced the minimum employment age by making periodic or unannounced inspection visits to public sector enterprises. They did not enforce the law effectively in the agricultural or private sectors. UNICEF last reported in 2003 that approximately 3 percent of children worked in some capacity. No child labor was reported in the industrial sector; however, economic necessity compelled many children to resort to informal employment. Many children worked part time or full time in small workshops, on family farms, and in informal trade. A report from the Ministry of National Solidarity in 2004 stated that more than 25,000 children between the ages of 6 and 14 were working in the informal economy. However, this study was carried out in less than half the provinces of the country.

*e. Acceptable Conditions of Work.*—The law defines the overall framework for acceptable conditions of work but leaves specific agreements on wages, hours, and conditions of employment to the discretion of employers in consultation with employees. The monthly minimum wage was insufficient to provide a decent standard of living for a worker and family. The minimum wage was approximately \$138 (10,000 dinars) per month. Ministry of Labor inspectors were responsible for ensuring compliance with the minimum wage regulation; however, enforcement was inconsistent.

The standard workweek was 37.5 hours. Employees who worked beyond the standard workweek received premium pay on a sliding scale from “time-and-a-half” to “double time,” depending on whether the overtime was worked on a normal work day, a weekend, or a holiday.

There were well-developed occupation and health regulations codified in the law, but government inspectors did not enforce these regulations effectively. There were no reports of workers being dismissed for removing themselves from hazardous working conditions. Because employment generally was based on very detailed contracts, workers rarely were subjected to conditions in the workplace about which they were not previously informed. If workers were subjected to such conditions, they first could attempt to renegotiate the employment contract and, that failing, resort to the courts; however, the high demand for employment in the country gave the advantage to employers seeking to exploit employees.

## BAHRAIN

Bahrain is a monarchy ruled by the Al-Khalifa family since the late 18th century, with a population of approximately 710 thousand. King Sheikh Hamad Bin Isa Al-Khalifa governs the country. His son, Crown Prince Sheikh Salman Bin Hamad Al-Khalifa, is heir apparent; and his uncle, Sheikh Khalifa Bin Salman Al-Khalifa, is prime minister. The king appoints a cabinet of ministers to help him run the government. Members of the Al-Khalifa royal family occupy about half of the cabinet positions, including all strategic ministries. In 2002, the government adopted a constitution that reinstated a legislative body with one elected chamber, the Council of Representatives (COR), and one appointed chamber, the Shura Council. Also in 2002, citizens selected representatives to the COR in free and fair multiparty elections. The constitution provides that the king is head of the executive, legislative, and judicial branches of the government. Civilian authorities generally maintained effective control of the security forces.

The following human rights problems were reported:

- inability to change the government
- political parties prohibited
- impunity
- restrictions on civil liberties—freedoms of speech, press, assembly, and association
- lengthy pretrial detention
- lack of judicial independence
- allegations of corruption in the judicial system
- discrimination based on gender, religion, sect, and ethnicity
- infringement of citizens’ privacy rights
- restrictions on freedom of religion and of movement
- violence against women
- trafficking
- restrictions on labor rights

For the first time, the government allowed a local human rights organization to inspect prison conditions.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

On February 28, the Civil High Court of Appeal upheld the April 2004 lower court judgment ordering the Ministry of Interior (MOI) to pay \$105,000 (40,000 dinars) to the family of a 21-year-old citizen killed in a demonstration in April 2002.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment.

At the end of November, Musa Abd Ali, a 24-year-old Shi’a activist with the “Committee of the Unemployed” filed a complaint with police alleging that in the early hours of November 28 plainclothes security personnel abducted him from his home,

beat him severely, assaulted him sexually, and threatened him with further harm unless he ceased his activities on behalf of the Committee of the Unemployed (see section 2.a.). A private doctor could not confirm evidence of a beating during the timeframe alleged by Abd Ali, nor evidence of sexual assault. Following the doctor's conclusions, Abd Ali changed his allegation to attempted sexual assault. Ministry of Interior officials stated publicly and privately that the government had no knowledge of nor involvement in the incident and, after completing an investigation, referred the case to the Attorney General's office. On December 13 Abd Ali withdrew his cooperation with the investigating authorities, after inconsistencies developed in his allegations.

There were no known instances of officials being punished for human rights abuses committed either during the year or in any previous year. Controversy continued over impunity for alleged torturers which the government maintained was granted by the 2001 general amnesty. In May, the Bahrain Human Rights Society (BHRS) and the dissolved Bahrain Center for Human Rights (BCHR) in cooperation with the National Committee for Martyrs and Victims of Torture (NCMVT) briefed the UN Committee Against Torture on their concerns. They focused on impunity for acts of torture committed prior to 2001; rejection by courts of all cases lodged against alleged torturers and of all requests for compensation; and the absence of redress and rehabilitation mechanisms for victims of torture.

*Prison and Detention Center Conditions.*—Prisons in the country generally met international standards, although the BHRS conducted an investigation of one prison during the year and its finding were not yet released at year's end.

On June 4, the MOI granted the BHRS permission to inspect Jaw men's prison and report on conditions in the prison. In August, the MOI reportedly refused a request from opposition political society Al-Wifaq to inspect prisons because it said only officially sanctioned human rights organizations were allowed to conduct such inspections. A team of 15 members of BHRS, including doctors, psychologists, lawyers and academics, visited Jaw prison on December 24 and December 31. Over the two visits the team met with 15 percent of the over 450-person inmate population and with members of the prison staff. The warden provided the team with access to all prisoners including to two inmates on death row. Members of the BHRS met with specified individuals and chose others at random. Under an agreement between the BHRS and the MOI, the BHRS was not free to discuss its findings until it releases a final report early in 2006.

Although the BHRS has not yet inspected the women's prison, reports indicate that female prisoners were housed in similar conditions as men. Juveniles were housed separately from adults until the age of 15. In April 2004, the Ministry of Social Development announced plans to open a separate center for the care of juvenile delinquents, but it had not yet done so by year's end. In August 2004, content of International Committee of the Red Cross (ICRC) discussions with government officials and NGOs was not made public.

The findings of a 2003 joint parliamentary and MOI Commission to investigate claims of prisoner beatings and mistreatment were still not made public by year's end.

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

*Role of the Police and Security Apparatus.*—The MOI is responsible for public security. It controls the Public Security Force and the extensive security service, which are responsible for maintaining internal order. The Bahrain Defense Force (BDF) is responsible for defending against external threats and also monitors internal security. There were no reports of corruption within the MOI and the BDF, although corruption was difficult to assess given the lack of transparency in activities and budgets.

There continued to be no known instances of police officers being punished for human rights abuses committed during the year or in any previous year.

In a May 31 decision, the appellate court acquitted Abdul Raouf Al-Shayeb, president of the NCMVT, of charges of indecency and un-Islamic behavior. Al-Shayeb had been convicted of these charges on February 25 and sentenced to two months in jail. In March 2004, police had arrested him days before his group planned to demonstrate against Law 56, the government decree that gives impunity to past and present government officials responsible for serious human rights abuses. He was denied legal representation for the five days he was detained in jail. The government also released his name and the nature of the case to the local press, violating its own laws on releasing such information in alleged vice cases. Other than his initial five-day detention in 2004, Al-Shayeb did not serve any time in prison.



In May 2004, King Hamad ordered an investigation into police conduct during a demonstration the previous day in which two civilians were injured by rubber bullets. Results of the investigation were not issued by the end of the year (see section 2.b.). There were no reports of investigations of reported police misconduct during demonstrations in June, July, and November in which demonstrators were reportedly beaten.

According to the MOI, its Disciplinary Court convicted three police officers in 2004 for criminal activities of property theft and disobedience. The press reported on a number of cases of police officers facing charges for various crimes, including theft, during the year.

*Arrest and Detention.*—Police must inform a misdemeanor suspect of the charges against him and transfer him to the Public Prosecutor's Office within 48 hours of arrest. A felony suspect must be charged and transferred to the Public Prosecutor's Office immediately. Within seven days of his arrest a detainee must appear before a judge in the Public Prosecutor's Office to determine the viability of continued detention regarding the case. If the judge decides the suspect is a flight risk or is a danger to society, he may rule for continued detention up to a maximum of 45 days while the investigation is carried out. At the end of 45 days the case must be reviewed by a second judge who may rule for continued detention up to a maximum of 45 days. This process may continue through reviews by a third and fourth judge, but detention may not exceed six months. According to the BHRS, although there are occasional reports of detention for up to one year, these reports are not common. Detainees are allowed prompt access to visiting family members.

There were no reports of individuals being detained arbitrarily or secretly without a warrant.

Judges may grant bail to a suspect and do so regularly.

The Ministry of Justice is responsible for the assignment and management of public prosecutors, while the MOI oversees security and all aspects of prison administration. Detainee access to attorneys was often restricted in the early stages of detention, attorneys must seek a court order to confer with clients. The state provides counsel if the defendant cannot afford to hire an attorney. After conviction, attorneys require the prison director's permission to visit a client in jail.

Jaw prison housed convicted, sentenced prisoners only. According to a BHRS official who conducted visits with inmates at Jaw prison in December, prisoners who describe lengthy pretrial detention up to nine months refer to trials for additional crimes for which they are to be tried while they are serving out a current sentence.

There were no reports of political detainees.

*e. Denial of Fair Public Trial.*—The constitution provides for a nominally independent judiciary; however, the judiciary was not independent, and courts were subject to government pressure regarding verdicts, sentencing, and appeals. The constitution provides that the king appoint all judges by royal decree. The king also serves as chairman of the Supreme Judicial Council, the body responsible for supervising the work of the courts and the public prosecution. The constitution does not provide a legislative branch confirmation process for judicial appointees nor does it establish an impeachment process.

The country's legal system is based on a mix of British Common Law, Shari'a (Islamic law), tribal law, and other civil codes, regulations, and traditions. The judiciary is organized into two separate branches: the civil law courts and the Shari'a courts.

The civil law courts adjudicate all civil and commercial cases, and all personal status cases involving non-Muslims. The Courts of Minor Causes (the Lower Courts and the Court of Execution) have one judge with jurisdiction over minor civil and commercial disputes. The High Civil Court has three judges with jurisdiction over larger civil and commercial disputes and personal status cases involving non-Muslims. Three judges hear appeals at the Civil High Court of Appeal. The criminal law courts adjudicate criminal cases. The Lower Criminal Court has one judge and rules on misdemeanor crimes. The High Criminal Court has three judges and rules on felonies. Appeals are made to the Criminal High Court of Appeal, which also has three judges. Both the civil and criminal court systems have a Supreme Court of Appeal (Court of Cassation), the final appellate court.

The Shari'a (Islamic law) courts have jurisdiction over personal status cases involving citizen and non-citizen Muslims. There are two levels: the Senior Shari'a Court and the High Shari'a Court of Appeal. At each level is a Sunni Maliki Shari'a Court with jurisdiction over all personal status cases brought by Sunni Muslims, and a Ja'afari Shari'a Court with jurisdiction over cases brought by Shi'a Muslims. The High Shari'a Court of Appeal is composed of a minimum of two judges. In the event of a disagreement, the Ministry of Justice provides a third judge, and the deci-

sion is based on a majority vote. There are 11 judges in the Sunni Maliki Shari'a courts and 12 judges in the Shi'a Ja'afari Shari'a courts.

The 2002 constitution established the Constitutional Court to rule on the constitutionality of laws and statutes. The Court's membership consists of a president and six members, all appointed by the king. These seven judges serve nine-year terms and cannot be removed before their terms expire. The king may present draft laws to the court to determine their constitutionality. The court's determination is final and "binding on all state authorities and on everyone," according to the constitution.

The Bahrain Defense Force maintains a separate court system which only tries military personnel accused of offenses under the Military Code of Justice. The MOI has a similar system for trying police officials. There were no reports of either court considering cases involving civilian, common criminal or security cases.

*Trial Procedures.*—Civil and criminal trial procedures provided for an open trial, the right to counsel, and the right to appeal. Juries are not a part of the judicial system. Reports continued alleging lack of access to a fair trial. However, an extensive judicial reform program has led to increasing transparency in the process, according to an international NGO familiar with the program.

Defendants may choose their own attorneys. If they are unable to afford a private attorney, defendants may ask the Ministry of Justice to appoint an attorney to represent them in court. There were allegations of corruption in the judicial system.

In 2003, a citizen lost custody of her two children in a Shari'a court, and her appeal was denied by the original judge. In January 2004, the Shari'a court overturned its 2003 decision and granted custody of the children to their maternal grandmother. The children's father then filed a verbal abuse case against human rights activist and head of the Women's Petition Committee, Ghada Jamsheer, who was involved in the custody battle. On June 28, Jamsheer was cleared of all charges.

From 2001–03, nine Shari'a court judges filed three defamation cases against Ghada Jamsheer. Trials for the three cases began in January. On June 26, the High Criminal Court dropped one of the cases, saying that the public prosecution should have tried the cases within three months after they were filed. On September 26, Jamsheer told the press that she had received a letter two weeks earlier from five of the Shari'a Court judges stating that they had withdrawn all three cases filed against her. However, the public prosecutor's office said it would still try the cases. Amnesty International (AI) and Human Rights Watch (HRW) expressed concern that the cases were brought against Jamsheer for her involvement in human rights activities. On December 13 and 28, in the second and third cases, Jamsheer was found not guilty.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution provides for freedom from arbitrary interference with privacy, home, and correspondence except under the provisions of the law and under judicial supervision; however, the government continued to infringe on citizens' right to privacy. The government carried out some illegal searches. Telephone calls and personal correspondence remained subject to monitoring (see section 2.a.). Police informer networks were extensive and sophisticated.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, but the government placed limitations on the exercise of these rights. The election law prohibits speeches at most public locations and limits the areas where campaign materials can be placed.

In 2002, the king decreed a press law. The government began implementing the law but later "froze" it due to a public outcry. Although suspended, the law was enforced at the government's discretion. The suspended press law provides for restricted freedom of speech and press. The law provides for prison sentences in three general categories of offenses: criticizing the state's official religion; criticizing the king; and inciting actions that undermine state security. In addition, the law allows fines up to \$5,225 (2,000 dinars) for 14 other offenses, including publicizing statements issued by a foreign state or organization before obtaining the consent of the minister of information; publishing any news reports that may adversely affect the value of the national currency; reporting any offense against the head of a state that maintains diplomatic relations with Bahrain; or publishing offensive remarks towards an accredited representative of a foreign country because of acts connected with the person's position.

Local press coverage and commentary on international issues was open, and discussion of local economic and commercial issues also was relatively unrestricted.

Newspapers covered opposition politics in detail and also published Friday mosque sermons, both Shi'a and Sunni, even when critical of the government. However, there was both censorship and self-censorship. Representatives from the Ministry of Information actively monitored and blocked local stories on sensitive matters, especially those related to sectarianism, national security, or criticism of the royal family, the Saudi royal family, and judges. At the same time, newspaper coverage of a wall built illegally by a senior royal family member in a Shi'a village resulted in the government ordering the wall's removal. Public demonstrations over foreign policy, unemployment, personal status laws, housing shortages, human rights abuses, and other issues were covered in the print media but not always on government-owned television. Radio and television broadcasts in Arabic and Farsi from countries in the region were received without interference.

In private settings, individuals openly expressed critical opinions regarding domestic political and social issues. There was also some freedom of discussion on the Internet (chat rooms, discussion forums, individual web logs), in letters to the editor, and occasionally on state-run television call-in shows.

The government owns and operates all local radio and television stations. In 2004, the government lifted its ban on correspondents from the Qatar-based Al-Jazeera satellite television channel, but maintained control over the selection of the locally-based correspondent. Al-Jazeera was available in the country via satellite.

The Ministry of Information exercised considerable control over privately owned local print media. The most independent of the country's newspapers, *Al-Wasat*, was subject to occasional government harassment. In 2003, Dr. Mansour Al-Jamry, editor-in-chief of *Al-Wasat*, was interrogated, fined, and sentenced for allegedly publishing sensitive information about an ongoing investigation of a locally-based terrorist cell. Al-Jamry appealed his case to the Constitutional Court, arguing that laws 42, 46, and 47, which deal with judicial authority, criminal procedure, and the press, were unconstitutional, and in May 2004 the High Criminal Court judge referred Al-Jamry's case to the Constitutional Court. The Constitutional Court upheld the constitutionality of the three laws and sent the case back to the High Criminal Court. At year's end, the case was still pending.

In 2003, Radhi Mouhsin Al-Mousawi, editor-in-chief of *The Democrat*, a newsletter published by the National Democratic Action Society, appeared before the High Criminal Court on charges of impropriety, breach of trust, fraud, and forgery of a written document after writing an article about corruption in the tourism sector and making allegations against an unnamed tourism inspector. Al-Mousawi also argued his case before the Constitutional Court, claiming that discrepancies in the procedural enactment of the press, judicial, and criminal laws made them unconstitutional. The Constitutional Court rejected Al-Mousawi's case. The High Criminal Court resumed the tourist inspector's defamation case against Al-Mousawi in September 2004. On September 28, the court acquitted Al-Mousawi of all charges (see section 5).

In February, the High Civil Court rejected the BCHR's appeal, and on June 14 an administrative court upheld the High Civil Court's decision. In September 2004, police had arrested Abdulhadi Al-Khawaja, former director of the BCHR, for criticizing and insulting Prime Minister Sheikh Khalifa (the king's uncle) at the Al-Aruba Club during a presentation on poverty. Al-Khawaja accused the prime minister of squandering public money and blocking key economic and social reforms. Shortly thereafter, the government temporarily closed Al-Aruba Club and dissolved the BCHR. In November 2004, Al-Khawaja was sentenced to one year in prison for violating Article 165 (inciting hatred against the regime) and Article 168 (spreading rumors that could undermine state security) of the Penal Code, but was ordered released by the king just hours after sentencing. The BCHR challenged its closure in court and continued to conduct activities. On May 31, the minister of social development warned the dissolved center to cease all activities or face prosecution. The center remains dissolved and its activities banned, although the government has tolerated some human rights activities of some former BCHR members.

The government restricted use of the Internet. A government-controlled proxy prohibited user access to Internet sites considered to be anti-government or anti-Islamic; dedicated, users often circumvented these restrictions, but access to a number of Web sites was impeded for most users. E-mail use was reportedly unimpeded, although it was monitored (see section 1.f.). More than one-third of the population used the Internet, with approximately 140,000 web-based e-mail accounts.

Between February 27 and March 1, authorities arrested three Web site administrators on charges of inciting hatred against the regime and spreading false rumors that could undermine state security, and held them for 15 days. Their Web site, [www.bahrainonline.org](http://www.bahrainonline.org), had been blocked by the government for several years. Supporters of the administrators held a number of demonstrations against the deten-

tions. The three detainees went on a hunger strike for several days. On March 14, the government released the three men, but prohibited them from traveling. They continued to face charges with a maximum sentence of six years in prison.

In April, the Ministry of Information launched a six-month campaign to register all Bahraini Web sites. Under the new government regulations, Web site administrators face the same libel laws that apply to print journalists, and Web masters are held jointly responsible for all of the content posted on their websites or chat rooms.

On February 22, Ghazi Mohamed was arrested and charged with “provoking and urging enmity of the system” for displaying a banner on his car on which was written “No to 2002 Constitution, Yes to 1973 Constitution.” He was released on \$135 (50 dinars) bail the same day he was detained. The case was later dismissed.

From 2001–2003, three Shari’a court judges filed three defamation cases against the head of the Women’s Petition Committee, Ghada Jamsheer. The judges alleged that Jamsheer had allegedly used foul language, insulted them and accused one of the judges of hiring prostitutes. On June 26, the High Criminal Court dropped one of the cases, saying that the Public Prosecution should have tried the cases within three months after they were filed. On December 13 and 28, in the second and third cases, Jamsheer was found not guilty (see section 1.e.).

Academic freedom was limited, although there were no formal regulations. Academics avoided contentious political issues, and the University of Bahrain did not have a political science program. The university’s hiring and admissions policies favored Sunnis and others who were assumed to support the government. A few Shi’a professors, including women, were hired, yet reportedly only approximately 40 percent of the professors were Shi’a. The proportional representation of Shi’a students was estimated to be approximately that of the Shi’a in the general population.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—Although the constitution provides for the right of free assembly, the law restricts the exercise of this right. The law requires organizers to notify the MOI 72 hours before a public gathering or demonstration takes place and the law prohibits unauthorized public gatherings of more than five persons.

Scores of demonstrations occurred throughout the year, including many that were not approved by the government and in which the government did not intervene. There were allegations that the MOI told the owners of venues to close their premises to prevent meetings from occurring, but it was not possible to determine the number of times this happened. The MOI reported that in the period between July 2004 and May 2005, there were 180 demonstrations, rallies, and sit-ins, the vast majority of which related to domestic issues such as unemployment, housing, and other social issues. Statistics between May and the end of the year were not available.

The Political Rights Law of 2002 regulates election campaigns and prohibits “election meetings” at worship centers, universities, schools, government buildings, and public institutions (see sections 2.c. and 3.). The government periodically limited and controlled political gatherings. On February 10 a second constitutional conference was held, but only representatives of the four political societies that had boycotted the 2002 elections attended. The media reported that several other political societies were involved in the early planning for the conference, including Al-Minbar (Muslim Brotherhood) political society. However, disagreements over the agenda and the perception that the boycotting societies would not accept the views of the others resulted in Al-Minbar and the other political societies voluntarily withdrawing their participation in the conference. There were allegations that the police confiscated posters and banners advertising the conference.

In April 2004, the press reported that the Ministry of Social Development sent letters to the four main opposition political societies threatening legal action if they followed through with their plan to hold a popular petition drive calling for the rejection of the 2002 constitution (see section 3). The minister of social development had previously made public announcements that such action by the societies violated Article 29 of the 1989 Societies Law, which states that only duly constituted organizations and corporate bodies may address public authorities collectively. The four societies held the petition drive in late April. During the event, police stormed the signature-collection stands and arrested 17 petitioners. Fourteen of those detained were released immediately while the other three were released on bail in early May 2004. The case was later dismissed for lack of evidence.

On March 25, opposition political society Al-Wifaq held a rally that the government had banned. The demonstration was peaceful and the police did not intervene. In a subsequent meeting with the minister of social development, Al-Wifaq was warned not to defy government decisions on demonstrations.

Throughout the year, the National Committee for the Unemployed staged numerous rallies calling on the government to find solutions to Bahrain's unemployment problem. As the Committee is not registered with the government, it cannot legally organize activities. (Public advocacy groups are not permitted to register as a civil society group if the government decides that the group is involved in political activities. The definition of political activities is not clear and is open to interpretation by government officials. If unable to register as a civil society group under the Ministry of Social Development, the group must register, if it meets the qualification requirements, as a political society under the Ministry of Justice.) The government warned the Committee on several occasions against holding unauthorized events, and two of its demonstrations turned violent. On June 19, police clashed with approximately 50 representatives of the Committee. According to the press, five protesters sustained injuries that required hospital treatment. Several police officers were also injured. The government did not punish or prosecute demonstrators in this case.

On July 15, 100–150 protesters gathered in Manama with plans to throw rotten food at the parliament building to protest the recently-passed budget because it lacked unemployment benefits. According to the press, police blocked the protesters' path and a confrontation broke out between the security forces and protesters. Ten to twenty protesters and one police officer reportedly suffered injuries. Among the injuries sustained by the protesters included deep welts, broken bones, and back problems. The government did not punish or prosecute anyone in this case.

On December 25 Shaikh Mohamed Al-Sanad was detained upon his return from Qom, Iran. Approximately three weeks earlier Shaikh Al-Sanad's office in Qom had released a statement questioning the legitimacy of the Bahraini government regime and calling for a repeat of a UN referendum conducted in 1971 concerning Bahrain's independence. As Shaikh Al-Sanad was being held at the airport, a group of 100–300 protesters gathered in the airport arrival lounge. Riot police were deployed and clashes between protesters and riot police ensued. Protesters threw airport furniture, resulting in damage to airport facilities. Several individuals were detained but were released within hours. Several days later 21 individuals were rearrested and charged for their involvement in the events at the airport. At the end of the year their cases were ongoing.

*Freedom of Association.*—The constitution provides for the right of free association; however, the government limited this right. The government does not allow the formation of political parties, though it has authorized political societies through the new Political Societies Law of July to run candidates and participate in other political activities (see section 3).

The 1989 Societies Law prohibits any activity by an unlicensed society and any political activity by a licensed civil society. The law provides the Ministry of Social Development the right to reject the registration of any society if its services are deemed unnecessary to society, are already being provided by another society, are contrary to state security, or are aimed at reviving a previously dissolved society.

The ministry has permitted several NGOs, including human rights organizations, to conduct political activities.

In September 2004, the Ministry of Labor and Social Affairs, now the Ministry of Social Development, dissolved the Bahrain Center for Human Rights (BCHR) after it held a seminar on poverty in which a BCHR member criticized the prime minister (see section 2.a).

*c. Freedom of Religion.*—The constitution provides for freedom of religion; however, the government placed limitations on the exercise of this right. The constitution declares Islam as the official religion, and all other religious groups must obtain a permit from the Ministry of Islamic Affairs in order to operate and hold religious meetings. Depending on a group's activities, it may also need approvals from the Ministry of Social Development, the Ministry of Information, and/or the Ministry of Education. There are numerous Christian churches of different denominations, four Sikh temples, and several official and unofficial Hindu temples located in Manama and its suburbs. The only synagogue has been closed since 1948.

The government funds, monitors, and subjects all official religious institutions to some controls. These include Shi'a and Sunni mosques, Shi'a *ma'tams* (religious community centers), Shi'a and Sunni *waqfs* (charitable foundations), and the religious courts, which represent both the Ja'afari (Shi'a) and Maliki (Sunni) schools of Islamic jurisprudence. The government may appropriate or withhold funding in order to reward or punish particular individuals or places of worship although reports of this were not common. There were no reported closures of mosques or *ma'tams* during the year.

Sunni and Shi'a waqfs made funding decisions for new mosque construction. Although both Sunni and Shi'a waqfs were reportedly well-endowed and were able to fund mosque construction, new mosques were dependent upon government approval of land allocation. The government's approval of land allocation for mosques was not transparent and reportedly not proportionate to Sunni and Shi'a communities relative to their populations in the country.

The government rarely interferes with what it considers legitimate religious observances. The government permitted public religious events, most notably the large annual two-day national Shi'a holiday of Ashura, but police closely monitored these gatherings. The king ordered the Ministry of Information to provide full media coverage of Ashura events. There were no restrictions on the number of citizens permitted to make pilgrimages to Shi'a shrines and to holy sites in Iran, Iraq, and Syria. The government monitored travel to Iran and scrutinized carefully those who chose to pursue religious study there.

The vast majority of those who attend Christian churches were expatriates. Events at churches occur frequently and are advertised regularly in the English press, including the hosting of guest speakers from many countries.

The Political Rights Law of 2002 forbids election speeches in worship centers, but political sermons continued (see sections 2.b. and 3). Proselytizing by non-Muslims is illegal and the government prohibited anti-Islamic writings; however, Christian publications, including Bibles, were sold openly. Religious tracts of all branches of Islam, cassettes of sermons delivered by sheikhs from other countries, and publications of other religions were readily available. Christian pastors were permitted to provide literature to Christian inmates and to prison libraries.

Although the Rifaa region constitutes approximately 40 percent of the country's landmass and has numerous Sunni mosques, in April 2004 the Royal Court denied an application for a Shi'a mosque declaring that land in Rifaa cannot be allocated for commercial enterprises.

Thirteen Christian congregations were registered with the government, operated freely, and allowed other Christian congregations to use their facilities.

Since 1950, the Mar Thoma Syrian Church of Malabar has sought land from the Ministry of Islamic Affairs to build a church and to hold religious services. Though Mar Thoma is registered with the government, the ministry has still not responded to the church's formal applications. The National Evangelical Church allows Mar Thoma's congregation to use its facilities for early morning services; however, the facility can only accommodate half of Mar Thoma's congregation at any time.

The Ministry of Islamic Affairs has repeatedly denied a Baha'i congregation a license to function. The ministry views Baha'ism as an inauthentic offshoot of Islam and blasphemous, and it therefore refuses to recognize the congregation. The Baha'i congregation continued to practice its faith without government interference.

*Societal Abuses, Discrimination and Anti-Semitism.*—Discrimination against the majority Shi'a population remained a problem. Sunnis received preference for employment in sensitive government positions and in the managerial ranks of the civil service. The royal family is Sunni, and the defense and internal security forces were predominantly Sunni. Shi'a citizens were allowed to hold posts in these forces, though not positions of significance.

In private conversations and in Internet forums, whose contents would not be permitted in the mass media, Shi'a consistently complained of discrimination, especially in public sector jobs and positions at the university. Although the percentage of Shi'a students was close to the relative Shi'a population in the country, only about 40 percent of university faculty was Shi'a. In the private sector, Shi'a citizens were employed in lower paid, less skilled jobs. While Shi'a acknowledged that the situation was improving slowly, they still compose a disproportionately high percentage of the country's unemployed. The government initiated programs during the year to improve employment prospects for citizens. Educational, social, and municipal services in most Shi'a neighborhoods, particularly in villages, were inferior to those found in Sunni urban communities.

Fewer than 50 Jewish persons reside in Bahrain, and one Jewish citizen served in the Shura Council. No acts of physical violence or harassment of Jewish persons or community institutions took place. The government has not enacted any laws protecting the right of Jews to religious freedom; however, it has not interfered with their religious freedom. The government makes no effort to specifically promote anti-bias and tolerance education. Some anti-Semitic political commentary and editorial cartoons appeared, usually linked to the Israeli-Palestinian conflict.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution prohibits restrictions on freedom of movement, except as provided by law and judicial supervision. Banishment and prevention of return are prohibited. Citizens were free to move within the country and change their place of residence or work.

The 1963 Citizenship Law provides that the government may reject applications to obtain or renew passports for reasonable cause, but the applicant has the right to appeal such decisions before the High Civil Court. A non-citizen resident may obtain a travel document, usually valid for two years and renewable at the country's embassies overseas. The holder of a travel document also requires a visa to reenter the country.

The constitution permits the government to revoke citizenship only in the cases of treason and other such cases "according to the law." The government has not revoked the citizenship of any person under the 2002 constitution.

Opposition groups claimed that the naturalization process was politically driven to manipulate demographics for voting purposes and to keep Shi'a out of the police and defense forces, which are allegedly dominated by naturalized Sunnis from foreign countries. Although naturalization requirements and process are clearly defined, they were not applied impartially, and adjudication of naturalization applications was not transparent. The government reportedly was more lenient with naturalization requests from expatriates in the security forces. Shi'a and non-Arab applicants reportedly experienced longer delays in the processing of their cases. The government complied with a 2003 parliamentary committee's request for official naturalization data. Though the government required the committee to keep personal data confidential, the committee published the statistics in the press (see section 5). The government occasionally granted citizenship to Sunni residents from neighboring countries. The government stated that some of the Saudis who had received citizenship were the grandchildren of Bahraini citizens who had immigrated to Saudi Arabia. According to the country's nationality law, these persons have a legal right to citizenship.

The constitution prohibits forced exile, and there were no reports of forced exile during the year. In May 2004, the Royal Court granted 34 citizens living in exile the right to return to the country.

Forty-four former exiles and prisoners who were pardoned in 2001, a number of whom are senior clerics, claimed that they are unable to travel in the region because they remain on blacklists. They alleged that in 1995 the MOI submitted their names to governments in neighboring countries, and that the ministry did not ask to have their names removed from blacklists after they were pardoned. The government denied that pardoned individuals remain on blacklists and reportedly sent letters to governments in the region inquiring about these persons. Although these individuals did not experience any difficulty departing Bahrain, in some cases destination countries refused entry to them. In other cases individuals have been granted entry after contact was made with Bahraini officials.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the government has not established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they fear persecution.

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

Citizens do not have the right to change their government or their political system; however, the constitution provides for a democratically elected Council of Representatives, the lower house of parliament. The king appoints the prime minister, who then proposes cabinet ministers who are appointed by the king. Members of the royal family held all strategic cabinet ministry positions.

The bicameral National Assembly consists of the 40-member popularly elected Council of Representatives (COR) and the 40-member appointed Shura (Consultative) Council. The Cabinet's Office of Legal Affairs drafts the text of laws, not the COR or the Shura Council. The king may veto laws passed by the National Assembly, which in turn may override a veto by a two-thirds majority vote. If the legislature overrides a veto, the king must promulgate the law within one month. No veto has been exercised and no law has been enacted that was proposed by a member of the legislature since the constitution was adopted.

The king may dissolve the COR at his discretion, and he retains the power to amend the constitution and to propose, ratify, and promulgate laws. Either council may question government ministers, and the COR may pass a two-thirds majority

vote of no confidence requiring a minister's resignation. The COR may also introduce a resolution indicating it cannot cooperate with the prime minister. The entire National Assembly would then have the option to pass the resolution by a two-thirds majority that would require the king to either dismiss the prime minister or dissolve the COR. The situation of a no-confidence vote has not arisen since the constitution was adopted.

*Elections and Political Participation.*—In 2002, the country held its first national elections in nearly three decades. Fifty-three percent of eligible voters elected the 40 members to the Council of Representatives, who shared legislative powers with the king and the Shura Council. The country also elected 10 members to each of 5 advisory municipal councils. Five appointed governors and the Ministry of Municipal Affairs oversee and control most of municipal functioning.

There were no government candidates in the 2002 elections. The Political Rights Law and the Election Law, both promulgated in 2002, restrict the freedoms of speech and association (see sections 2.a. and 2.b.). Approximately 250 trained local volunteers from Bahrain Transparency Society, BHRS, and others not affiliated with any political society, observed both municipal elections and both rounds of the parliamentary elections. They reported that the election campaigning and voting was generally free and fair. They also reported that some candidates were not allowed to visually observe ballot counting and that there was incomplete reporting of election results.

The government drew the electoral districts in both the municipal council and the legislative elections to protect Sunni interests by creating several districts with small populations likely to elect a Sunni candidate. In contrast, districts where a Shi'a candidate was likely to win were drawn to include large numbers of voters, a formula that diluted the voting strength of the Shi'a community. Observers commented that this gerrymandering generally violated the one-man, one-vote principle common to most democracies. According to the Carnegie Endowment for International Peace, divergence in the electoral population per district are great: the number of citizens per elected representative can vary by a factor of 10, or even 20.

Political parties are prohibited, but 15 political "societies" operate much like political parties and hold internal elections, campaign for public support, and host political gatherings (see section 2.b.). The government began recognizing political societies in 2002 and placed them under the jurisdiction of the 1989 Societies Law. Though the 1989 law prohibits societies from engaging in political matters, the government permitted such activity.

In July, a Political Societies Law replaced the 1989 law as the governing law for organized political activity. The law gives political societies legal authority to operate and defines rules that they must follow. Political societies were highly critical of provisions in the law that require them to notify the Ministry of Justice before contacting political groups abroad; prohibits foreign funding or training; raised the minimum membership age from 18 to 21; and gives the Ministry of Justice the authority to reject an application for registration.

Al-Wifaq, the country's largest political society, and three other political societies boycotted the 2002 parliamentary elections, citing grievances over the constitutional provisions that equalized the powers of the elected COR and the royally-appointed Shura Council. During the year, all political societies, including the four boycotting societies, registered under the new Political Societies Law, a required first step toward participation in the 2006 elections.

The Ministry of Social Development suspended an opposition group, the Islamic Action Society (IAS), for 45 days after a June 29 seminar in which the IAS allegedly praised 73 persons convicted of a 1980s coup attempt in Bahrain. The ministry accused the IAS of "defaming the constitution, national symbols, and the political leadership; tolerating incitement; and distributing pamphlets unlicensed by the Ministry of Information.

Women have the right to vote and run for public office. Women accounted for 52 percent of voters in the 2002 municipal council election. The government did not publish the percentage of women voters in the legislative election. No women were elected in either election.

The king has appointed six women to the Shura Council. The Ministry of Cabinet Affairs reported in 2004 that women held 9 percent of senior civil service posts. Minister of Health Dr. Nada Haffadh, appointed in April 2004, was the first female minister in the country. Minister of Social Development Dr. Fatima Al-Belooshi, who was appointed in January, is the second. Two female officers hold the rank of colonel in the Bahrain Defense Force.

In July, the government and the UN Development Program launched an initiative associated with the Supreme Council for Women to train women as candidates in the 2006 elections. By year's end, 82 women had participated in the program.



Almost all citizens belong to the Shi'a and Sunni sects of Islam, with the Shi'a constituting approximately 70 percent of resident citizens. Members of the two sects have equal rights before the law. However, Sunnis predominate politically and economically. The royal family is Sunni and is supported by the armed forces and the security services, both of which contain very few Shi'a, and influential Sunni and Shi'a merchant families.

The king appointed a Christian and a Jewish member to the Shura Council. Twenty-one Shura Council members were Shi'a Muslims and seventeen were Sunni. Five of the 20 cabinet ministers were Shi'a.

*Government Corruption and Transparency.*—Significant areas of government activity continued to lack transparency, although there is evidence that the government is slowly encouraging a climate of greater openness. New legislation increased transparency in Central Bank transactions and activities, increased disclosure responsibilities for the 47 companies listed on the Bahraini stock exchange, and increased vigilance in areas of finance vulnerable to money laundering. Publication of the Audit Bureau's second report revealed indications of corruption within Bapco (Bahrain Petroleum Company). During the National Assembly debate on the 2006–2007 government budget, figures and details were publicly debated, bringing new transparency to the government's budgetary process.

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

Restrictions on freedom of association and expression hindered investigation or public criticism of the government's human rights policies. There are more than 400 NGOs registered in the country, most of which were sports clubs and charitable organizations. NGOs must report to the Ministry of Social Affairs when their members participate in international NGO events. In recent years, the government has allowed increased interaction between local civil society groups and international human rights organizations. In December Freedom House partnered with BHRS to organize a conference on family law issues. In October and November members of domestic NGOs participated with international NGOs in four thematic conferences leading up to the Forum for the Future conference. A local human rights activist organized a "parallel" Forum for the Future conference for regional NGOs. Bahrain Transparency Society had regular contact with parent organization Transparency International. Civil society members traveled regularly to attend conferences in the region, in Europe, and in the Americas.

The Bahrain Center for Human Rights (BCHR) was one of the most active NGOs in the country from 2002 to 2004. The group produced reports, supported victims of trafficking, held seminars, and organized other events. Since 2003, government ministries had warned the Center against conducting activities that were outside of its bylaws. In September 2004, the Ministry of Social Development issued a press release to local newspapers announcing the dissolution of the BCHR. The government locked the Center's property and froze its bank accounts. The BCHR challenged its closure in court, but lost the case and subsequent appeals (see section 2.a.). The BCHR's activities remained suspended.

The Bahrain Human Rights Watch Society (BHRWS), established in December 2004, conducted a number of human rights activities throughout the year, including organizing conferences and awareness campaigns on women's rights, children's rights, and labor rights. On December 10 BHRWS announced the establishment of a new coalition called "Respect" to focus on the twin issues of the need for a family law and the protection of abused domestic workers.

In May, the government submitted a report to the UN Committee Against Torture (CAT), having missed due dates of 1999 and 2003. Three local NGOs, including the banned BCHR, submitted shadow reports to the CAT (see section 1.c.). On May 26, several thousand people attended an NGO-sponsored seminar in Manama focusing on the CAT's recommendations.

On June 4, the BHRS received permission from the government to inspect prison conditions. A delegation visited Jaw prison on December 24 and December 31.

On July 29, the BHRS released its 3rd annual report, covering 2004. The BHRS recommended amending the 1989 law governing civil societies to allow for greater protection from government intervention and for freedom to assume a more central role in societal development. It called for an amended constitution, to grant more rights and freedoms to the people. BHRS also recommended that election districts be redrawn and suggested ways to reform the judiciary.

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

The constitution provides for equality; equal opportunity; and the right to medical care, welfare, education, property, capital, and work for all citizens. However, these

rights were protected unevenly, depending on the individual's social status, sect, or gender.

*Women.*—Spousal abuse of women was widespread, particularly in poorer communities. In August 2004, a prominent clinical psychologist conducted a scientific study of 605 women of varying ages, social statuses, and educational backgrounds, and concluded that 30 percent of the country's married women had been subjected more than once to verbal, physical, or psychological spousal violence. There were very few instances of women seeking legal redress for violence, and there was little public attention towards or discussion of the problem. Incidents usually were kept within the family.

On June 14, the quasi-government Bahrain Telecommunications Company (Batelco) opened the Center for Family Violence and began offering free medical, psychological, legal, and social assistance to victims of violence, including women and children. The center runs a hotline that abused persons can call for assistance.

No government policies or laws explicitly addressed violence against women. Rape is illegal and the press reported some cases of men being arrested for rape. The law does not address spousal rape. Although the number of convictions was not available, during the year there were 331 cases of sex-related crimes referred to the public prosecutor, including sexual harassment, sexual assault, and rape. In 2004, 374 cases were referred to the public prosecutor's office.

It was not uncommon for foreign women working as domestics to be beaten or sexually abused by their employers and recruiting agents. Numerous cases were reported to local embassies, the press, and the police; however, most victims were too intimidated to sue their employers, although they had the right to do so. Courts reportedly allowed victims who registered complaints to sue for damages or return home. If the victim brings a suit against the employer, the plaintiff cannot leave the country for the duration of the case. The Migrant Worker Protection Society (MWPS) has supported several victims who have taken their cases to court, but awards to victims were reportedly very low. In 2003 Anita, a 28-year-old Indian domestic servant, was hospitalized after being abused by her employer for 3 months. She had received less than one month's full pay. She sued her employer for damages and back pay. By year's end the case was still not resolved. Although Anita has repeatedly indicated her desire to return to her family in India, she is not permitted to travel unless her former employer signs Anita's exit papers, which she will only agree to do if Anita drops the charges.

Although prostitution is illegal, some women, mostly foreigners, engaged in prostitution. In 2003, an opposition political society's newsletter alleged that the Ministry of Information's tourism inspectorate division was corrupt and had allowed a flourishing trade of trafficking in persons and prostitution. The government refuted the accusation, and the author of the article was charged with defamation of character (see section 2.a.). On September 28, the court acquitted the author of all charges.

There is no specific law that prohibits female genital mutilation (FGM). BHRS received several reports of cases during the year, but there were no available statistics on the prevalence of FGM. The Supreme Council for Women, a government body that promotes women's rights, called on the Ministry of Health to conduct a study on the prevalence of FGM.

Women's legal rights vary according to Shi'a or Sunni interpretations of Islamic law (as determined by the individual's faith or by the court in which various contracts, including marriage, were made). Since 2002, women have filed complaints with the ministries of justice and Islamic affairs against several Shari'a judges, arguing that women were often treated unfairly in their courts. In March 2004, the minister of justice suspended six Shari'a court judges indefinitely. According to the ministry, the judges reportedly had lost the trust of the community due to their misconduct and could no longer serve the community successfully (see section 1.e.).

Shi'a and Sunni women have the right to initiate a divorce; however, religious courts may refuse the request. Although local religious courts may grant divorces to Shi'a women in routine cases, occasionally Shi'a women seeking divorce under unusual circumstances must travel abroad to seek a higher ranking opinion than that available in the country. Women of either sect may own and inherit property and may represent themselves in all public and legal matters. In the absence of a direct male heir, Shi'a women may inherit all property. Sunni women without a direct male heir inherit only a portion as governed by Shari'a; the balance is divided among the brothers or male relatives of the deceased. In practice, better-educated families use wills and other legal maneuvers to ameliorate the negative effect of these rules.

In divorce cases, the courts routinely grant Shi'a and Sunni mothers custody of daughters under age nine and sons under age seven. Custody usually reverts to the

father once the children reach those ages. Regardless of custody decisions, the father retains guardianship, or the right to make all legal decisions for the child—until the child reaches the legal age of 21. A non-citizen woman automatically loses custody of her children if she divorces their citizen father. A Muslim woman legally can marry a non-Muslim man if the man converts to Islam. In such marriages, the children are automatically considered to be Muslim.

Married women have the right to apply for a passport without their husband's consent. Women have the right to travel abroad without gaining prior consent.

By law foreign women who marry citizens are eligible for citizenship after five years of marriage. Foreign men who marry citizens, however, are not entitled to citizenship, and neither are their children. On July 14, the Bahrain Women's Society launched a campaign to promote full citizenship rights for foreign husbands and their children. Over the past two years the society has run a registration campaign to record the personal information of the more than 1,800 children (infant to age 21) who were born to citizen mothers and do not have citizenship.

Widows, divorcees, and other women with child dependents have the right to apply for government housing and loans. The government gives divorcees the right to remain in their home while they raise their children if the dwelling is government housing.

According to the Ministry of Commerce, women constituted 17 percent of the total workforce and 40 percent of the government workforce. The government has encouraged women to work and was a leading employer.

Labor laws prohibit discrimination against women; however, discrimination existed in the workplace, including inequality of wages and denial of opportunity for advancement. The influence of religious traditionalists sometimes has hampered women's constitutional rights despite their participation in the work force. On January 15, a new law granted women working in the public sector 42 days maternity leave, not including weekends. Women in the private sector are entitled to 45 days maternity leave, including weekends.

Sexual harassment is prohibited; however, harassment was a widespread problem for women, especially foreigners working as domestics and in other low-level service jobs. The press reported a number of instances of men being arrested for sexually harassing women.

Women accounted for 11 percent of all business license registrations. Another 33 percent were filed jointly by a man and a woman or groups including women.

The president of the University of Bahrain is a woman. Sixty percent of students at the University of Bahrain are women, although some women complained that admissions policies discriminated against qualified female applicants, especially Shi'a women. However, since admissions were based on published high school exam results, admission policies were mostly transparent.

Several women's organizations seek to improve the status of women under both civil and Islamic law. Throughout the year, the government and NGOs sponsored a number of conferences related to women's rights. Some of the most active women's groups are the Bahrain Businesswomen Society (BBS), the Bahrain Young Ladies Association, the Bahrain Women's Society (BWS), and the Al-Mustaqbal Society. The Supreme Council for Women was established by royal decree and is directed by the wife of the king, Her Highness Shaikha Sabika Bint Ebrahim Al-Khalifa.

Women activists have been trying since 2001 to establish the Bahrain Women's Union and continued to face setbacks during the year. The union seeks to bring together numerous societies to advocate for women's rights. One of the group's priorities is the creation of a personal status law to protect the rights of families, women, and children. The government has continuously rejected the union's application on technical grounds, saying that the activities of the union are political in nature.

On January 8–9, Bahraini NGOs, in cooperation with Amnesty International, hosted the Conference on Violence and Discrimination Against Women in the Gulf Cooperation Council. Dozens of activists from the region discussed problems facing women in the Gulf and made recommendations on how to advance women's rights.

*Children.*—The government has often stated its commitment to the protection of children's rights and welfare. It generally honored this commitment through enforcement of related civil and criminal laws and through an extensive social welfare network.

Children born to Bahraini mothers and non-citizen fathers are not entitled to citizenship. The Bahrain Women's Society reported in June that there are approximately 1,800 children of Bahraini women who reside in the country but do not have citizenship. These children are ineligible for certain educational and healthcare benefits and other rights of citizens.

Public education for citizen children below the age of 15 is free. The constitution provides for compulsory education at the primary levels (usually up to 12 or 13

years of age). In recent years, authorities did not enforce compulsory education rules. However, the Education Act, which came into effect on August 18, imposed fines on parents whose children failed to go to school and outlined other measures to encourage school attendance. According to the UN Children's Fund (UNICEF), 92 percent of school-aged children are enrolled. Most students finish secondary school.

Limited medical services for infant and preadolescent citizens were provided free of charge. Non-citizen adults and children pay less than \$3 per visit for care at public health centers.

Child abuse was not uncommon, although public discussion of it was rare. The Bahrain Women's Society's "Be Free" Campaign, which has posted a web site for victims of child abuse since 2002, reported that during the year there were on average 50 email postings per month from Bahraini children, youth and adults alleging to be abuse victims or to have been victims of child abuse in the past.

Child prostitution is illegal and there were no reported cases during the year.

Independent and quasi-governmental organizations played an active part in protecting children by providing counseling, legal assistance, advice, shelter, and financial support to distressed children and families.

On July 29, the press reported that the Ministry of Social Affairs blocked the Bahrain Child Society from holding a gathering. A representative of the ministry told the press that the society had not registered with the government and therefore was not authorized to organize activities. A member of the society's preparatory committee claimed that they had applied for registration 11 months before but had not yet received approval from the ministry.

Child marriage was rare. The press reported that on June 12 an 11-year-old was allegedly kidnapped by family members and forced to marry a 30-year-old relative. Police found the girl and returned her to her mother. The police detained one suspect in the case who was convicted of kidnapping and sentenced to prison. The length of his prison term was not available.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports that some foreign workers were recruited for employment on the basis of fraudulent contracts and then forced to work under conditions different from what was promised. According to government statistics, foreigners make up approximately 60 percent of the workforce. Workers from Southeast Asia, South Asia, Ethiopia, and the former Soviet Union and Eastern Bloc reported being forced into conditions that amounted to trafficking (see section 6.c.). Some of these victims reported being sexually exploited or being forced to work as prostitutes; however, the most common forms of trafficking in persons involved unskilled construction laborers and domestic workers. There are approximately 50,000 foreign housemaids working in the country, and labor laws do not apply to domestic workers.

Up to half of low and unskilled expatriate workers were subjected to contract substitution and this was often due to the duplicity of recruiting agents in the worker's home country. Victims of trafficking experienced withholding of passports by employers, alteration of contracts without their consent, nonpayment of salaries, inadequate meals, physical abuse, and/or extremely long working hours. There were also allegations from runaway housemaids that some recruitment agencies make it a practice to rape incoming housemaids.

Frequently, citizen traffickers—including some from influential families—tricked new workers into paying up to \$1,200 (450 dinars) for fraudulent visas and non-existent jobs. The government has taken measures to fight this illegal practice. The Ministry of Labor more than doubled its number of labor inspectors to investigate reports of visa abuse.

Prostitution is illegal, but some foreign women engaged voluntarily in prostitution. There were also reports that some foreign women were forced into prostitution. In cases of forced prostitution, the government generally prosecuted the offender and often the victim's sponsor or employer. There were 78 cases involving prostitution referred to the Public Prosecution during the year, down from 184 cases in 2004. Statistics on convictions and sentences were not available. The fear of deportation or employer retaliation prevents many foreign workers from making complaints to the authorities. Many foreign workers are unaware of their rights under the law, such as the right to change employers without the consent of the original employer after working two years in a position.

Throughout the year the press carried occasional stories of expatriate workers committing or attempting suicide. Exact statistics of attempts and deaths were unavailable.

In March, Indian tailor Madhu Babu committed suicide after his employer, a factory that makes clothing for J.C. Penney, allegedly held him in solitary confinement for 15 days when he contracted chicken pox and then forced him to work while he

was still sick. Company officials claim Mr. Babu was provided with air-conditioned accommodation during his quarantine and said that he was visited by a doctor daily. After Mr. Babu's suicide, 400 workers rioted and caused significant damage to the factory. Representatives of the MWPS and the Bahrain Human Rights Watch Society met with Ministry of Labor officials to discuss the suicide and worker safety.

Trafficking remained a problem, although the government has taken positive steps to combat it. The government can fine employers guilty of forced labor up to \$2,600 (1,000 dinars). Although 2005 statistics were not yet available, in 2004 the Ministry of Justice brought over 300 cases against employers. The rules also require sponsors to put up a deposit of \$265 (100 dinars) for each runaway worker. The government published pamphlets on expatriate workers' rights in several languages, provided manuals on these rights to local diplomatic missions, and operated a telephone hotline for victims. The government does not provide direct assistance to victims.

On June 26, Meena Raj Kumar Dolare was sentenced to 3 months in jail and fined \$1,330 (500 dinars) for severely assaulting her maid in 2003. Though Dolare reportedly admitted to the abuse, she was released on \$1,330 (500 dinars) bail and vowed to appeal the ruling. Rights activists praised the ruling, but reported that it was the only conviction in more than 20 rape and physical abuses cases filed by foreign housemaids in the past two-and-a-half years. The MWPS reported that at least a dozen foreign women have dropped abuse cases against their employers because the courts delayed proceedings for months or even years and they wanted to return to their home countries.

The Embassy of the Philippines reported that 210 distressed Filipino workers were repatriated in the first 6 months of the year. The workers claimed that they faced a range of problems including maltreatment, physical and sexual abuse, and non-payment of salary. The Philippine Embassy's shelter for victims of abuse reported that it received 466 individuals (mostly women, but also a number of men) who ran away from their sponsors for reasons of alleged abuse. Statistics on other nationalities were not available.

Several NGOs provided assistance to trafficking victims with the government's approval. They include the MWPS, The Art of Living Foundation, the Indian Community Relief Fund, and the BHRWS. The MWPS, which operated a shelter for victims, reported that it received up to 20 pleas of help from expatriate workers in distress every month. On average, the MWPS said that 40 percent of the cases constituted severe abuse.

*Persons with Disabilities.*—The law protects the rights of persons with disabilities and a variety of governmental, quasi-governmental, and religious institutions are mandated to support and protect persons with disabilities. In 2001 the Central Informatics Organization conducted the national census and determined that there were 3,963 disabled citizens. The labor ministry estimated the number of persons with disabilities at 7,000 in 2002, but in 2003 the International Labor Organization (ILO) estimated that persons with disabilities accounted for 4 percent of the population—approximately 24,000 persons. More recent statistics were not available.

There were no reports of discrimination against persons with disabilities in employment, education, or access to health care. The law protects the rights of persons with disabilities and a variety of governmental, quasi-governmental, and religious institutions are mandated to support and protect persons with disabilities. Children with learning disabilities, physical handicaps, speech impediments, and Down Syndrome were enrolled in specialized education programs in public schools.

The government required public housing to provide access for persons with disabilities, although enforcement was sporadic. Greater emphasis has been given in recent years to public building designs that incorporate access for persons with disabilities; however, the law does not mandate access to non-residential buildings for persons with disabilities.

In January, the Central Municipal Council decided that all new public buildings in the municipality must include ramps, elevators, special lavatories, and other facilities for persons with disabilities.

Society tended to view persons with disabilities as persons in need of protection rather than as fully functioning members of society. Nonetheless, the government is required by law to provide vocational training for persons with disabilities who wish to work, and it maintains a list of certified, trained persons with disabilities who are eligible for employment as jobs become available. The 1976 Labor Law requires any employer of more than 100 persons to hire at least 2 percent of its employees from the government's list of workers with disabilities. However, the government does not monitor compliance. The government placed persons with disabilities in some public sector jobs. A Ministry of Social Development representative told the

press on May 6 that more than 400 persons with disabilities had been employed in the past two years.

In January, the government began distributing \$130 (50 dinars) per month to eligible persons with disabilities. By August, more than 2,000 persons were receiving this assistance monthly.

The Center for the Treatment of the Blind and the Center for the Education of Deaf Children both operated in the country. Throughout the year, the government and NGOs sponsored numerous conferences and workshops on issues related to persons with disabilities.

*National/Racial/Ethnic Minorities.*—Article 3 of the 1963 Citizenship Law grants citizenship to Arab applicants who have resided in the country for 15 years and to non-Arab applicants who have resided in the country for 25 years. There were reports that the citizenship law was not applied uniformly, and that the government allowed expatriate Sunni Arabs who had served less than 15 years in the security services to apply for citizenship. There were also reports of Arab Shi'a who had resided in-country for more than 15 years and non-Arab expatriates who had resided more than 25 years who had not been granted citizenship. It was unclear how many of these cases were delayed due to the lack of required documentation.

In 2003, the Council of Representatives formed a committee to investigate the naturalization process and allegations that the government illegally naturalized persons who did not reside in the country (see section 2.d.). The committee's report pointed out that political naturalization has a negative impact on security and socioeconomic conditions. On April 5, the undersecretary testified before parliament and vowed to correct any violations of the nationality law. To date the MOI has reported no progress in this regard.

According to BHRS, reports of violence or discrimination against homosexuals or persons with HIV/AIDS were not common. However, reports of crimes in the media did not regularly specify if a victim of a crime was an alleged homosexual or had HIV/AIDS. Bahraini law does not criminalize homosexual relationships between consenting adults of at least 21 years of age.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Workers Trade Union Law grants workers, including non-citizens, the right to form and join unions. There were 47 private-sector trade unions in the country. Nineteen percent of the private-sector labor force belonged to unions. The union law established a union federation, the General Federation of Bahrain Trade Unions (the Federation), which all unions are required to join. The law does not restrict who may be a union official other than to stipulate that a member of a company's management may not be a union member. The law states that no more than one union per establishment may be created and it prohibits unions from engaging in political activities.

Members of the military are prohibited from joining unions. The law allows union membership for private sector, civil service, and maritime workers. In June 2003, the king confirmed the right of civil servants to form unions. Since then, five public sector unions have been established, but they are still not recognized by the government. In February, the High Civil Court rejected a case filed by the Federation on the right of civil servants to organize.

The law does not address anti-union discrimination, and no reports of such behavior were reported. The law encourages unions to participate in international labor forums and events. The Federation is affiliated with International Confederation of Free Trade Unions (ICFTU) and the International Confederation of Arab Trade Unions (ICATU).

In May, the Ministry of Labor issued a decree requiring any employer of a Federation board member or a union head to give the union member compensated time away from work to attend to union duties. Federation board members, and presidents and vice-presidents of unions in companies with 1,000 or more workers, are completely exempt from reporting to their normal work duties. Presidents of unions in companies with 100–299 workers are given 2 days a week away from their normal work duties. Presidents of unions in companies with 50–99 workers are given 1 day a week away from regular duties.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. Unions can be formed at establishments of any size. Employers and the government are required to treat unions as independent juristic entities.

The law states that “the right to strike is a legitimate means for workers to defend their rights and interests;” however, the law also restricts this right. The law requires arbitration before a vote to strike and that three-quarters of a union's

members approve the strike in a secret ballot. It is not clear whether the arbitration is binding.

Although government sources say the arbitration provision will not preempt the right to strike, the text of the law does not clearly specify that a union may proceed to a strike vote if it disagrees with the arbitrator's decision.

On May 17, forty workers in an Olayan Kimberly-Clark plant went on strike after four colleagues were fired. The four workers claimed that they were dismissed a few days after they had notified management of the intention to form a labor union. Company officials claimed that the workers were fired for poor performance. The workers were re-instated June 1 after the Federation and Ministry of Labor intervened.

On June 8, the press reported that Gulf Air warned the newly elected head of the workers union to resign or face termination of employment. At year's end, Gulf Air, the union, and the government were negotiating a resolution to the conflict.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. However, there were reports that such practices occurred, particularly in cases of domestic servants and those working illegally (see section 5). There were no reports of forced or compulsory child labor.

Foreign workers, who make up approximately 60 percent of the workforce, in many cases arrived in the country under the sponsorship of an employer and then switched jobs while continuing to pay a fee to their original sponsor. This practice made it difficult to monitor and control the employment conditions of domestic and other workers. The government issued new regulations granting foreigners more freedom to change jobs, but the process is legally cumbersome and many foreign workers remain unaware of their rights and obligations under the law. After one year in a position, a foreign worker is allowed to break this contract and look for other work. Prospective employees must present the new employer with a "No Objection Certificate" (NOC) from the previous employer. After two years in a position, expatriate employees may change jobs locally without the approval of the original sponsor and within the duration of their contract period, provided the original employer was notified in writing months in advance. Many foreigners have been unable to obtain NOCs to get a new job.

Unskilled foreign workers can become indentured servants and often lacked the knowledge to exercise their legal right to change employment.

In numerous instances, employers withheld salaries from their foreign workers for months and even for years, and refused to grant them the necessary permission to leave the country. The government and the courts generally worked to rectify abuses if they were brought to their attention, but they otherwise focused little attention on the problem. The fear of deportation or employer retaliation prevented many foreign workers from making complaints to the authorities (see Section 6.e.).

The government worked to decrease instances of abuse by passing a law assessing a \$1,300 to \$2,650 (500 to 1,000 dinars) fine for employers found guilty of forced labor. Claims of runaway workers in the country have dropped dramatically since 2003. The new rules require sponsors to pay a \$265 (100 dinars) deposit per employee for each report of a runaway.

Labor laws do not apply to domestic servants. There were numerous credible reports that domestic servants, especially women, were forced to work 12- or 16-hour days, given little time off, were malnourished, and were subjected to verbal and physical abuse, including sexual molestation and rape. Between 30 to 40 percent of the attempted suicide cases handled by the government's psychiatric hospitals were foreign maids (see Section 6.e.).

It was estimated that there were 50,000 foreign housemaids working in the country who are predominantly of Sri Lankan, Indonesian, Indian, Bangladeshi and Filipino origins. During the year, there were several incidents of seriously abused housemaids reported in the press.

Housemaids who have no embassy representation in the country (Indonesian and Sri Lankan) are often subject to the worst types of physical and sexual abuse. With no diplomatic mission to protect them and no established victim assistance shelter, runaway housemaids have often been returned by untrained police to abusing employers.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced and compulsory child labor, and the government enforced this prohibition effectively (see section 6.c.).

The minimum age for employment is 14 years of age. Juveniles between the ages of 14 and 16 may not be employed in hazardous conditions or at night, and may

not work more than 6 hours per day or on a piecework basis. Ministry of Labor inspectors enforced child labor laws effectively in the industrial sector; child labor outside that sector was monitored less effectively, but it was not believed to be significant outside of family-operated businesses. Even in such businesses, it was not widespread.

*e. Acceptable Conditions of Work.*—There is no official minimum wage; however, in 2002 the government stated that the public and private sectors should pay workers no less than \$398 (150 dinars) per month. Compliance with these guidelines was not actively monitored in the private sector, and the guidelines did not provide for a decent standard of living for a worker with family. Unskilled foreign laborers in particular did not earn as much as the guidelines suggested. The Labor Law allows employers to consider benefits for foreign workers such as annual trips home, housing, and education bonuses as part of the salary. On July 24, the government raised its lowest pay grade to \$520 (200 dinars) per month for its civilian employees.

The Labor Law is enforced by the Ministry of Labor and mandates acceptable conditions of work for all adult workers, including adequate standards regarding hours of work (a maximum of 48 hours per week) and occupational safety and health. Under the Labor Law, workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

The ministry enforced the Labor Law with periodic inspections and routine fines for violators. Trained inspectors visited labor barracks to ensure that workers' accommodations met required safety and hygiene standards. The inspectors are only authorized to inspect premises that have a commercial registration.

When a worker lodges a complaint, the Ministry of Labor opens an investigation and often takes remedial action. The Fourth High Civil Court consists of three labor courts and has jurisdiction over cases involving alleged violations of the Labor Law. Complaints brought before the Ministry of Labor that cannot be settled through arbitration must be referred to the Court within 15 days. In practice, most employers preferred to settle such disputes through arbitration, particularly since the court and the Labor Law generally are considered to favor the employee.

The Labor Law provides for fines and jail sentences for private sector employers who failed to pay wages as required by the law. The law applies equally to employers of citizens and of foreign workers. According to representatives of several embassies with large numbers of workers in the country, the government was generally responsive to embassy requests to investigate foreign worker complaints regarding unpaid wages and mistreatment.

Women covered by the Labor Law in most jobs were entitled to compensated maternity leave and nursing periods during the day. Women generally were paid less than men.

The government has occupational health and safety standards and agencies responsible for their enforcement. The government and NGOs held several occupational safety seminars throughout the year.

The press often performed an ombudsman function on labor problems, reporting on job disputes and the results of labor cases brought before the courts.

The press reported that at least 12 workers were killed in construction sites during the year. Numerous workers reportedly suffered injuries on the job. In July, the Ministry of Labor recommended that construction companies give their workers a midday break during the summer months. The ministry's recommendations were not binding, and numerous workers reportedly suffered heatstroke.

## EGYPT

The Arab Republic of Egypt, with a population of approximately 72 million, has been governed by the National Democratic Party (NDP) since the party's establishment in 1978. The NDP, which continued to dominate national politics by maintaining an overriding majority in the popularly elected People's Assembly and the partially elected Shura (Consultative) Council, derives its governing authority from the 1971 constitution and subsequent amendments. Executive authority resides with the president of the republic and the cabinet. On September 7, President Hosni Mubarak won a fifth 6-year term, with 88 percent of the vote, in the country's first multi-candidate presidential election, a landmark event that was otherwise marred by low voter turnout and charges of fraud. The November and December parliamentary elections witnessed significant opposition gains but were marred by violence, low turnout, fraud, and vote rigging. The civilian authorities generally maintained effective control of the security forces, which committed numerous, serious human rights abuses.



The government's respect for human rights remained poor, and serious abuses continued in many areas. The following human rights problems were reported:

- limitations on the right of citizens to change their government
- existence of the state of emergency, in place almost continuously since 1967
- torture and abuse of prisoners and detainees, including deaths in custody
- poor conditions in prisons and detention centers
- impunity
- arbitrary, sometimes mass, arrest and detention, including prolonged pretrial detention
- executive influence on the judiciary
- denial of fair public trial and lack of due process
- political prisoners
- restrictions on civil liberties—freedoms of speech, press, assembly, and association; some restrictions on freedom of religion
- corruption and lack of transparency

An amendment to the constitution provided for the country's first multi-party presidential election in September. Ten political parties fielded candidates, and the campaign period was marked by vigorous public debate and greater political awareness and engagement. Security forces acted with restraint during the presidential election. The election was widely acknowledged as a significant improvement on previous presidential referenda, but it was marred by electoral flaws and low turnout. In addition, the government did not permit international observers to monitor the election. An increasingly independent media reported on political reform and human rights. Civil society supported political reform, including the independent monitoring of the presidential and parliamentary elections. Unlike in previous years, many demonstrations advocating political reform and critical of the government took place without excessive interference by security forces. These positive developments were offset, however, by violence against peaceful opposition demonstrators by government supporters and/or security forces on May 25 and July 30 in Cairo, during the parliamentary elections, and on December 30 against Sudanese protesters in Cairo. The National Council for Human Rights (NCHR) issued its first annual report in April, frankly describing government abuses and offering a series of recommendations. The government responded in September by saying that it was fully cooperating and would investigate all complaints submitted by the NCHR, though by year's end the government did not appear to take any concrete action in response to the report's recommendations.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of targeted political killings; however, security forces killed a number of opposition voters and protesters during the parliamentary elections. The death toll was at least 11; although several of the deaths resulted from violence between supporters of competing candidates, the majority of the killings in the parliamentary elections resulted from the security forces' use of rubber bullets and live ammunition. At least 27 Sudanese protesters were killed on December 30 when security forces cleared a squatters camp in a Cairo park, erected to protest treatment of Sudanese refugees.

During the year, human rights organizations and the press reported that at least seven persons died in custody at police stations or prisons.

In June 2004, the Egyptian Organization for Human Rights (EOHR) issued *Torture: An Unchecked Phenomena*, a report which documented 15 deaths in custody among 41 cases of torture in police stations from April 2003 to April 2004. EOHR also asserted that from 1993 to April 2004, it documented 120 cases where detainees died as a direct result of torture, among some 412 cases of torture in police stations (see section 1.c.).

In early February, security forces (supported by local Bedouin guides) pursuing suspects involved in the October 2004 Sinai bombings killed three fugitives (Hamad Goma Tarabeen, Mohammad Abdel Rahman Badawi, and an unidentified third man) linked to the October 2004 Sinai terror attacks near Ras Sidr on the west coast of the Sinai peninsula.

On March 15, Nefissa Zakariyya el-Marakby, age 38, died after her release from police custody, following a series of police raids on the village Sarando, in Bahariya governorate. The Land Center for Human Rights (LCHR) and Human Rights Watch (HRW) reported that security forces, in an attempt to locate men suspected of in-

volvement in an ongoing land dispute, arrested scores of women and children and interrogated them in makeshift detention centers. Security forces reportedly physically and psychologically abused and humiliated el-Marakby and others, according to other women detained with her. El-Marakby was released to her family on March 14 and taken to Damanhour hospital, where it was determined that she was paralyzed. El-Marakby died on the morning of March 15. On March 21, the public prosecutor stated that the government's investigation into the incident concluded that el-Marakby died of natural causes rather than from torture. El-Marakby's family filed a lawsuit with the help of LCHR, but later withdrew the claim.

On May 6, Muslim Brotherhood (MB) member Tarek Ghanem died during an MB protest in Tulkha, Daqahiliya governorate. Police said he was crushed to death by other protesters but the MB claimed police hit him on the head (see section 2.b.). On May 16, EOHR, which had sent a fact-finding mission to inquire about Ghanem's demise, called on the government to investigate.

On May 19, Ashraf Said Youssef, an alleged leader of the terrorist cell that carried out attacks on April 7 and April 30 in Cairo, died at the hospital where he was being treated for injuries sustained after his April 29 arrest. Public Prosecutor Maher Abdel Wahed announced on May 22 that Youssef had died as a result of self-inflicted injuries when he hit his head against the wall of his detention cell. According to the government, however, by year's end the public prosecutor's office had not yet received the forensic report. Government sources noted that Youssef's injuries included bruises and contusions on his torso and arms (see section 1.c.). Youssef's cousin, Mohamed Suleiman Youssef, had reportedly died in custody sometime before April 27 after he was detained in connection with the April 7 attack.

In early August, Mohamed Saleh Feleifel was killed in a gun battle with the police near Ataka Mountain in Suez. He was being pursued by security forces in connection with the October 2004 bombings in Taba and the July 23 terrorist attacks in Sharm El Sheikh. His wife, who was with him, was wounded; she later died in the hospital.

In September and October, security forces killed additional suspected terrorists in the Jebel Hillal region of the Sinai. On September 27, press reports indicated that government security personnel had killed three fugitives and captured a fourth. On November 21, the Ministry of Interior announced that its forces had killed fugitive Salim Khidr Al-Shunub and his associates Salam Suwaylam al-Unj and Salaam Attiya Salaam. The ministry also announced that the security forces had killed a total of 11 suspects in the Sinai bombings and apprehended 26 others. Two senior police officials were killed in early September when the security forces first moved into Jebel Hillal.

During October protests by Muslim demonstrators against a theatrical production staged by members of the Mar Guirguis Church in Alexandria, security forces reportedly killed three Muslim demonstrators who were threatening the church.

In November and December, during the second and third rounds of the parliamentary elections, security forces in the Nile Delta region used lethal force against multiple groups of opposition voters. At least 11 persons were killed during election-related violence. According to EOHR, those killed included Mohamed Khalil Ibrahim (Alexandria); Gomaa Saad al-Zeftawy (Kafr Al-Sheikh); Islam Ahmed Shihata (Al-Daqahlia governorate); Magdy Hassan Ali al-Bahrawy (Al-Daqahlia); Tamer Mahmoud Abdu al-Qamash (Al-Daqahlia); Al-Saeed al-Deghidy (Damietta); Ihab Saleh Ezz al-Deen (Damietta); Shaaban Abdu Abu Rabaa (Damietta); Mostafa Abdel Salam (Al-Sharqia governorate); Mohamed Karam al-Taher Eliwa (Al-Sharqia); and Mohamed Ahmed Mahdy Gazar (Al-Sharqia). According to EOHR, the violence also left at least 500 persons injured.

EOHR asserted that responsibility for the elections related clashes could be attributed to supporters of the ruling party, as well as independents and MB supporters. EOHR also noted, however, that most of the fatalities occurred on December 7 after security forces closed at least 496 polling stations, which led to clashes between security forces who were enforcing the closure of the voting stations and opposition voters who were prevented from voting.

On December 30, at least 27 Sudanese refugees died when the police used water cannons and batons to clear a group of several thousand Sudanese protesters who had erected a squatters' camp in a city park in the Mohandiseen district of Giza to protest UNHCR resettlement policies. Human rights activists said the government forces were responsible for the deaths, but the government blamed the fatalities on a "stampede" by the refugees, some of whom were allegedly intoxicated.

In April, there were three attacks on tourist destinations in Cairo. On April 7, Egyptian suicide bomber Hassan Ahmed Rifat Bashandi, with the prior assistance of several accomplices, detonated an explosive device in the Khan el-Khalili bazaar, killing 3 foreigners and wounding 17 other foreigners and Egyptians. On April 30,

Egyptian Ihab Youssry Yassin Ali detonated an explosive device near the Egyptian Museum in central Cairo, killing himself and wounding four foreigners and several Egyptians. In a related attempted attack, less than an hour later, Ihab's sister, Nagat Youssry Yassin Ali, and a female acquaintance, Iman Ibrahim Khamis, fired a pistol at a tourist bus in Sayeda Aisha Square in Cairo. After failing to injure any of the passengers, Nagat shot herself and then Iman. The only deaths in the April 30 were the three perpetrators themselves, who were reportedly part of the small terrorist cell responsible for the April 7 bombing.

On July 23, three bombs exploded in Sharm El Sheikh, killing at least 75 persons and injuring hundreds of Egyptians and some foreign tourists. The bombers, thought to number three Egyptians, were also believed to have died. The Sharm El Sheikh attacks were widely regarded as linked to the October 2004 attacks on tourist destinations in the Sinai, where 34 persons died.

*b. Disappearance.*—There were no new cases of disappearance during the year.

Human rights monitors continued to call attention to prior unresolved cases of disappearance.

According to HRW, retired Brigadier Ahmed Salem Ebeid, a former deputy minister of defense and minister of information in the Yemeni government, was confirmed during the year to be residing in Yemen under house arrest, forbidden by the Yemeni government to have contact with the media. Ebeid had disappeared from his Cairo residence in February 2004.

In 2004, EOHR reported that it had been following 59 cases of disappearance within the country since 1992. Domestic human rights organizations provided names to the UN Working Group on Enforced and Involuntary Disappearances; the government did not respond to the EOHR report.

The 2003 disappearance of Adel Mohammed Kamiha, a coffee shop owner, and of Reda Helal, a prominent journalist, remained unsolved.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Article 42 of the constitution prohibits the infliction of “physical or moral harm” upon persons who have been arrested or detained; however, torture and abuse of prisoners and detainees by police, security personnel, and prison guards remained common and persistent. According to the UN Committee Against Torture, a systematic pattern of torture by the security forces existed. Police torture resulted in deaths during the year (see section 1.a.).

Torture or authorizing torture are felonies punishable by 3 to 10 years’ imprisonment under the penal code. For deaths resulting from torture, the crime is considered intentional murder punishable by a life sentence. Arrest without due cause, threatening death, or using physical torture are crimes punishable by imprisonment. Abuse of power to inflict cruelty against persons is a crime punishable by imprisonment and fines. Victims may also bring a criminal or civil action for compensation against the responsible government agency. There is no statute of limitations in such cases.

Despite these legal safeguards, there were numerous, credible reports that security forces tortured and mistreated prisoners and detainees. Domestic and international human rights groups reported that the State Security Investigations Service (SSIS), police, and other government entities continued to employ torture to extract information or force confessions. Reports of torture and mistreatment at police stations remained frequent. In prominent cases, defendants alleged that police tortured them during questioning (see sections 1.e. and 2.c.). Although the government investigated torture complaints in some criminal cases and punished some offending police officers, punishments generally have not conformed to the seriousness of the offense. The government has not prosecuted any SSIS officers for torture since 1986, according to a senior Ministry of Interior official during a February meeting with HRW. There was no indication during the remainder of the year that the government prosecuted or otherwise penalized State Security officials for human rights abuses.

Principal methods of torture reportedly employed by the police and the SSIS included stripping and blindfolding victims; suspending victims from a ceiling or door-frame with feet just touching the floor; beating victims with fists, whips, metal rods, or other objects; using electrical shocks; and dousing victims with cold water. Victims frequently reported being subjected to threats and forced to sign blank papers for use against themselves or their families should they in the future complain about the torture. Some victims, including male and female detainees and children, reported sexual assaults or threats of rape against themselves or family members. While the law requires security authorities to keep written records of detentions, human rights groups reported that the lack of such records often effectively blocked investigations.

The Emergency Law—applied almost continuously since 1967 under the state of emergency—and most recently renewed in 2003 through May 2006—authorizes incommunicado detention for prolonged periods. Detentions under this law frequently were accompanied by allegations of torture. The government responded to terrorist attacks in April and July with a crackdown authorized by the Emergency Law; authorities conducted mass arrests of scores or hundreds of persons acquainted with the suspects and reportedly tortured some of them in custody (see section 1.d.).

In May 2004, the government's Central Audit Agency directed the Ministry of Interior to require any security or police officers found responsible for torture to be financially liable for any judgments levied against the ministry. According to the Human Rights Association for the Assistance of Prisoners (HRAAP), punitive damages awarded by the courts during the year to victims of torture mounted to approximately \$35,500 (LE 204,500).

The government continued efforts during the year to hold some security personnel accountable for torturing prisoners in their custody; however, the government has not investigated any SSIS officials for torture in the last two decades. The government also continued its practice of giving light sentences to police officers convicted of serious abuses, including torture resulting in death. Human rights organizations and the press reported that at least 12 police officers in 5 separate cases, 2 of which involved deaths in custody, were held publicly accountable. Some of the cases involved incidents that took place in previous years.

On January 17, the Cairo Criminal Court sentenced Ahmed Saleh Darwish, of Cairo's Bab Al-Shareya police station, to five years in prison for torturing to death suspect Mohammad El-Husseiny Imam in 2001. According to a forensic report, Imam had died from electric shocks. Egypt's highest court, the Court of Cassation, had overturned an initial conviction of Darwish in May 2003 and ordered a retrial in September 2004.

On April 6, EOHR reported that the Nagada misdemeanors court, under article 129 of the penal code, sentenced Nuh Taha Ibrahim Muqlid, a police officer in charge of the Nagada police station's investigation unit, to one week's imprisonment for cruelty against detainee Mohammad Halaby Mohammad in April 2004.

On May 10, the Cairo Criminal Court sentenced police officer Mohamed Mubarak Ali and assistant officers Zaghloul Hamed Higab and Ahmed Ibrahim Madany—all based at the Sayyeda Zeinab police station—to three years' imprisonment for intentional assault against Mahmoud Gabar Mohamed which led to his death in 2003. Originally charged under article 126 of the penal code with torturing a suspect to extract a confession, the defendants were convicted of deliberate fatal assault, receiving the minimum sentence under article 236 "for reasons of clemency."

Numerous cases of torture were documented. According to EOHR, there were 34 cases of torture in police stations reported during the year. In late January, Mohammed El-Sayed Salem reportedly suffered a fractured spine and was left unconscious and paralyzed after being repeatedly kicked while handcuffed at a police station in Zagazig, according to EOHR. Although a court ruled that Salem should be freed on bail, he was detained for three more days. He was finally freed and taken to a local hospital on January 27.

On April 18, according to reports given by family members to EOHR, Ahmed Mahmoud Salem, who had been detained at Kafr Saqr police station in Sharqiya governorate, died after being beaten, sexually assaulted, and tortured with electric shocks. EOHR urged the public prosecutor and the interior ministry to investigate.

On June 23, EOHR submitted a formal complaint calling for an investigation into the case of Abdel Gawad El-Aaw, who was arrested on June 15 by Waraq police station officers for possession of drugs and weapons. Family members who had talked to El-Aaw in detention told EOHR that he had suffered beatings, including to "sensitive parts" of his body, at the hands of four police officials.

According to an EOHR report on June 23, the NCHR (which includes a representative from EOHR) had received 74 complaints of torture and officially forwarded them to the minister of interior. The June 23 EOHR report noted that the ministry had not responded to any of the complaints.

On March 30, a Cairo criminal court formally acquitted Mohammad El-Sharkawi, the chief of investigations at Helwan police station, his assistant, and three security officers of torturing nine suspects at the Helwan police station in October 2003.

On April 5, two defendants facing prosecution for their alleged roles in the October 2004 bombings in Taba filed a lawsuit against the interior ministry, charging that their confessions had been obtained by torture. The lawsuit remained pending at year's end.

In January 2004, the public prosecutor indicted police major Yasser Ibrahim El-Akkad, head of the criminal investigations unit at Haram Police Station in metropolitan Cairo, for torturing actress Habiba while investigating the 1999 killing of

her husband. The case against El-Akkad, who claimed that Habiba willingly confessed, remained ongoing at year's end.

In March, six police officers were convicted of torturing to death Ahmed Khalil Ibrahim in 2002, and each was sentenced to 10 years' imprisonment; the sentences were reduced to 7 years by an appeals court. In 2004, the Alexandria Criminal Court had twice postponed the case, before proceedings resumed in March. The Association for Human Rights Legal Aid (AHRLA) filed a civil suit on behalf of Ibrahim's family, seeking \$1.6 million (LE 10 million) in compensation.

On March 17, EOHR reported that Khalid Abdel Rahim Sadiq had been beaten and tortured at the Haram police station after he was arrested on February 7 following an in absentia conviction.

On June 23, EOHR reported it had documented 292 torture cases between 1993 and 2004, and 120 cases in which the victim concerned died as a result of suspected torture or mistreatment. In 2004 EOHR monitored 42 cases of torture and 23 deaths. As of June 23, EOHR reported it had monitored 27 cases of torture and 5 deaths during the year.

Human rights observers recommended that rules and standards for victims be established to obtain redress and parity in compensation.

In a 2002 report, the UN Committee Against Torture, a subcommittee of the UN Commission on Human Rights, recommended that the government end the state of emergency, adopt a clear legal definition of torture, cease incommunicado detention, order the review of military court decisions by a higher tribunal, remove ambiguities in the law that allow the prosecution of individuals for their sexual orientation, accept a visit by a UN special rapporteur on torture, establish rules and standards for victims, and allow human rights organizations to pursue their activities unhindered. In 2004, the government maintained that the report's recommendations were still under review.

Remedial actions cited by the government in 2004 include the abolition of flogging in prisons; unannounced inspections of places of detention; court decisions that disregarded confessions obtained under duress; increased human rights training for police officials; and the establishment of several human rights committees and departments within government ministries. With assistance from the UN Development Program, the government continued to implement the committee's recommendation for increased human rights training for law enforcement personnel and prosecutors. The government did not permit a visit during the year by the UN special rapporteur on torture.

*Prison and Detention Center Conditions.*—Prison conditions remained poor, and the government did not permit visits by international human rights observers. Officials from the NCHR visited several prisons during the year. EOHR and HRAAP both stressed the deteriorating conditions in prisons, especially overcrowded cells and a lack of medical care, proper hygiene, food, clean water, proper ventilation, and recreational activities. Tuberculosis was widespread; overcrowded cells remained a problem. Some prisons continued to be closed to the public.

On January 1, EOHR reported that 25 prisoners in Tora Penitentiary, south of Cairo, had been engaged in a hunger strike to protest poor living conditions in the prison.

On April 27, EOHR issued a report, based on prison visits made in 2004 and on complaints received from approximately 100 prisoners, that attributed the cause of poor health and sanitary conditions in prisons to the poor quality food given to the prisoners, overcrowding in cells, and the complete lack of specialized doctors, medicines, or medical equipment.

On May 31, EOHR reported that four prisoners at Wadi Natroun Prison protested bullying at the hands of other inmates as well as a lack of medical care after being beaten by other inmates.

On June 5, a barber detained at a police station in Hawamdeya district of Giza died due to the heat in the detention room.

Failure to implement judicial rulings regarding the release of administrative detainees and the opening of prisons to visits remained a problem. Relatives and lawyers often were unable to obtain regular access to prisons for visits. Special restrictions were placed on the number of visits and visitors to prisoners incarcerated for political crimes or terrorism.

As required by law, the public prosecutor continued to inspect all regular prisons during the year; however, findings were not made public. SSIS "detention centers" were excluded from mandatory judicial inspection.

While separate prison facilities existed for men, women, and juveniles, adults were not always separated from juveniles, and abuse of minors was common. Civilians were not detained in military prisons. Political prisoners generally were detained separately from prisoners convicted of violent crimes.

Lawyers were permitted to visit prisoners in their capacity as legal counsel; however, they often faced bureaucratic obstacles preventing them from meeting with their clients (see section 1.d.). The International Committee of the Red Cross and other international and domestic human rights monitors did not have access to prisons or to other places of detention.

In early April, the Prisons Authority began implementing a policy of allowing prisoners to leave for one or two-day family visits before the end of their prison terms, explaining it as an opportunity for prisoners to readjust to life outside prison. At the end of the visit, prisoners were required to report back to the prison.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, during the year, police and security forces conducted large-scale arrests and detained hundreds of individuals without charge under the Emergency Law. Police also arbitrarily arrested and detained hundreds of persons in connection with unlicensed demonstrations and the parliamentary elections. Arbitrary arrest and detention remained a significant problem and increased markedly during the year.

Government arrests and detention of MB members and supporters increased significantly from the previous year. There were reports of political detainees. The government continued to use the Emergency Law under the official state of emergency, which was renewed in 2003 through May 2006, to try non-security cases in the emergency courts and to restrict many other basic rights. HRAAP and other credible NGOs estimated during the year that there were approximately 10,000 detainees.

*Role of the Police and Security Apparatus.*—The country has both local and national law enforcement agencies, all of which fall under the Ministry of Interior. Local police operate in large cities and governorates. The ministry controls the State Security Investigations Service (SSIS), which conducts investigations, and the Central Security Force (CSF), which maintains public order. SSIS and CSF officers are responsible for law enforcement at the national level and for providing security for infrastructure and key officials, both domestic and foreign. Single-mission law enforcement agencies, such as the Tourist and Antiquities Police and the Anti-Narcotics General Administration, also work at the national level. As a whole, the security forces operated under a central chain of command and were considered generally effective in their efforts to combat crime and terrorism and preserve and maintain public order. However, a culture of impunity militated against systematic prosecution of security personnel who committed human rights abuses.

There were continued instances of torture by police, and human rights monitors believed the use of torture by police was widespread. Although some police were prosecuted, human rights monitors believed most incidents of torture went unpunished. Security forces continued to mistreat and torture prisoners, arbitrarily arrest and detain persons, hold detainees in prolonged pretrial detention, and engage in mass arrests.

There was widespread petty corruption in the police force, especially below senior levels. An internal affairs mechanism, the workings of which are not publicized, was regularly employed for investigating corruption and other instances of police malfeasance. Judicial recourse was also employed (see section 1.c.).

In addition to acceptance of bribes or simple theft, there were instances of accompanying assault and even murder. On March 1, the Court of Cassation upheld the sentencing of two police officers and six accomplices to seven years' imprisonment for assault and robbery of a businessman.

On May 22, the Court of Cassation upheld the sentencing of a low-ranking police official to death, his accomplice to life in jail, and their accessory to five years' imprisonment for the premeditated murder of two workers at a tobacco company and theft of \$12,000 (LE 69,000) of company funds.

Impunity was a serious problem. The government failed to investigate and punish many instances of credible allegations of mistreatment by police and security forces.

By year's end, there had been no public measures taken to prosecute or otherwise discipline security forces for their assaults on citizens on May 25, July 30, during the parliamentary elections, or during the December 30 violence against Sudanese refugees (see sections 2.b., 2.d., and 3).

*Arrest and Detention.*—To obtain a warrant from a judge or prosecutor prior to 1981, the constitution provided that police had to show that an individual had "probably" committed a specific crime. The 1981 declaration of a state of emergency, and the imposition of the Emergency Law, nullified this requirement and provided that in order to obtain a warrant, police must show only that an individual "poses a danger" to security and public order.

The Emergency Law allows detention of an individual without charge for up to 30 days, only after which a detainee may demand a court hearing to challenge the

legality of the detention order, and may resubmit a motion for a hearing at one-month intervals thereafter. There is no limit to the detention period if a judge continues to uphold the detention order or if the detainee fails to exercise his right to a hearing. Incommunicado detention is authorized for prolonged periods by internal prison regulations. Human rights groups and the UN Committee Against Torture both expressed concern over the application of measures of solitary confinement.

In cases tried under the Emergency Law, access to counsel was often restricted or denied prior to the transfer of the accused to a courtroom for the start of proceedings. Many detainees under the Emergency Law remained incommunicado in State Security detention facilities without access to lawyers. After these cases are transferred to trial, the court appoints a lawyer.

The Penal Code also gives the government broad detention powers. Prosecutors must bring charges within 48 hours following detention, or release the suspect. However, they may hold a suspect for a maximum of 6 months while they investigate. Arrests under the Penal Code occurred openly and with warrants issued by a district prosecutor or judge. There was a functioning system of bail for persons detained under the Penal Code. The Penal Code contains several provisions to combat extremist violence, which broadly define terrorism to include the acts of "spreading panic" and "obstructing the work of authorities."

In one notable case, Ayman Nour, member of parliament and leader of the licensed opposition al-Ghad (Tomorrow) Party, was arrested January 29 outside parliament on charges that he forged proxy signatures on his party's registration papers, which had been approved by the Shura Council's Political Parties Committee in October 2004. A request to strip Nour of his parliamentary immunity was endorsed the same day, apparently violating several significant procedural requirements in the process. Just before the arrest, State Prosecution already had teams initiating exhaustive searches of Nour's offices and residence. Nour was initially held on a 4-day detention order, which was extended 48 hours later during his initial arraignment to the maximum of 45 days, after the court denied bail.

Shortly after Nour's detention, EOHR issued a press release, alleging that Nour "was roughed up at the time of his arrest, thrown to the ground, hit in the face, and punched repeatedly in the back." At the police station, the statement contended, Nour was "shackled to a door frame and forced to bend for an extended period." The Arab Center for the Independence of the Judiciary issued a similar statement.

On March 12, the public prosecutor ordered Nour released on \$1740 (LE 10,000) bail, 43 days after his January 29 arrest. On March 22, the government formally charged Nour and six codefendants with forgery and knowingly using forged documents. The case was referred to a criminal court for trial by a state security prosecutor beginning on June 28. The trial lasted for nearly six months, with a number of lengthy delays which permitted Nour to run, unsuccessfully, for president and for parliament. Nour was convicted on December 24 (see section 1.e) and sentenced to five years' imprisonment.

In an internationally publicized case, on August 10, after 23 days in detention, police released Dr. Magdy El Nashar who was arrested for his suspected role in the July bombings in London.

Access to counsel was provided in cases tried under the Penal Code, but reportedly sometimes with difficulty. Thousands of persons have been detained administratively in recent years under the Emergency Law on suspicion of terrorist or political activity. Several thousand others have been convicted and were serving sentences on similar charges (see section 1.e.). During the year HRAAP estimated that the total number of persons in administrative detention was approximately 10,000. HRAAP estimated that an additional 10,000 persons have been released over the past three years.

Detentions in Sinai, in connection with ongoing investigations into the October 2004 terror attacks, remained a subject of controversy. In November 2004, HRAAP and EOHR had called on the government to release detainees, estimated to number as many as 3,000, whom government security forces arrested in the Sinai, mostly around the town of Al-Arish, after the October 2004 terrorist bombings in Taba and Nuweiba that killed 34 persons. In February, a HRW report ("Mass Arrests and Torture in Sinai") charged that as many as 2,400 persons were still held in detention. In January, family members of the detainees staged several protests in El-Arish. The government did not respond publicly to the charges about the Sinai detainees, nor did it provide details about releases of detainees. According to domestic human rights activists, many of the original detainees were released over the course of the year; however, the government also arrested an additional unknown number of persons in connection with the July 23 bombings in Sharm El-Sheikh, and as part of anti-terror operations conducted in September and October in the Jebel Hillal region

of northern Sinai. At year's end there were no reliable estimates of the total number of suspects who remained in detention in the Sinai.

Beginning in December 2004, the Kifaya ("Enough") Movement staged multiple demonstrations throughout the year calling for political reform. There were numerous examples of arrest and detention of peaceful demonstrators. For example, on January 28 police arrested three members for distributing leaflets publicizing Kifaya's February 4 demonstration. On April 26, police arrested two Kifaya activists, Ashraf Suleiman and Hisham Nabil, prior to pro-reform demonstrations as they were distributing the movement's leaflets outside Helwan, south of Cairo (see section 2.b.).

Also during the year, the government arrested and detained hundreds of persons associated with the Muslim Brotherhood, which has been an illegal organization since 1954. In 2004, the government arrested only 90 MB members. From February through June, during dozens of demonstrations across the country in which MB members demanded political reform, security forces arrested and detained hundreds of members of the organization, often holding them for at least 15 days, "pending further investigation." Security forces arrested and detained MB members in Cairo, Assiut, Sharqiyya, Daqahliyya, Damietta, Beheira, Fayoum, Sohag, and Minya. In Fayoum in early May and in Mansoura in late March and early May, clashes between MB members and security forces resulted in a back-and-forth of arrests, reactionary demonstrations, and more arrests. In May, EOHR reported that it had documented the names of at least 498 Muslim Brotherhood members arrested during the course of peaceful demonstrations staged in Cairo, Sharqiyya, Ismailiyya, Suez, Minya, Bahrayya, Fayyoun, Menoufiyya, Assiut, and Gharbiyya. Charges leveled against members during the year included membership in and revival of a banned organization; obstructing the laws and constitution of the country; inciting the masses against the government; organizing demonstrations critical of the government's policies; and possessing communiques, booklets and tapes that propagate MB ideology. In November and December the government detained hundreds more MB activists in an apparent effort to limit MB success in the parliamentary elections. Many of those arrested were released after a matter of days or weeks, but at year's end, the MB charged that approximately 30 remained in detention.

Information about the number of detainees at any given time was often in dispute. For example, in June, the government announced that it had released approximately 300 MB members and supporters who had been detained after May demonstrations, and that 349 MB detainees remained in custody. The MB acknowledged the releases, but asserted that 2400 persons had been arrested and that 590 remained in detention. At year's end there were conflicting accounts of remaining Muslim Brotherhood detainees, ranging from several dozen to several hundred.

The government also arrested or detained several leaders of the organization, including Abdel Moneim Aboul Fotouh, on March 27; Essam el-Erian, senior leader and spokesman, on May 6; and Mahmoud Ezzat, Secretary-General and chief of the group's Cairo operations, on May 22. The government released these detainees, along with many other MB activists, during the summer and fall (see section 2.b.).

*Amnesty.*—There were no reports of the government granting amnesty or otherwise engaging in large-scale early releases of political prisoners.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the president may invoke the Emergency Law to refer any criminal case to the emergency courts or military courts, in which the accused does not receive most of the constitutional protections of the civilian judicial system. There were political prisoners.

*Trial Procedures.*—The constitution provides for the independence and immunity of judges and forbids interference by other authorities in the exercise of their judicial functions. This provision generally was observed in practice; however, throughout the year, thousands of judges affiliated with the Cairo and Alexandria Judges' Clubs (the two largest independent professional associations for the judiciary) publicly called for greater autonomy for the judiciary from the executive branch. The Judges' Clubs, whose leadership is selected by votes of the membership, called for the passage of a new law governing executive-judiciary relations, which would raise judicial salaries, separate judicial duties from compensation packages controlled by the Ministry of Justice (i.e., an executive branch organ), and decrease the oversight role of the Supreme Judicial Council, a regulatory body answering to the ministry and composed of government appointees.

On April 15 and May 13 respectively, the Alexandria and Cairo Judges' Clubs threatened to boycott their constitutionally mandated role as supervisors of the presidential and parliamentary elections, over concerns about the integrity of the electoral processes as well as concerns about executive branch domination of the ju-



diciary. Although the Club members decided collectively on September 2 to serve as supervisors of the elections, many individual judges who supervised the parliamentary elections commented critically about the flaws in the process. On December 16, the Cairo Judges' Club overwhelmingly re-elected as its leader Counselor Zakariya Abdel Aziz, who had spearheaded the calls for judicial autonomy. By year's end, there had been no public progress on the consideration of a new law governing executive-judiciary relations.

The president appoints all judges upon recommendation of the Higher Judicial Council, a constitutional body composed of senior judges. Judges are appointed for life, with mandatory retirement at age 64. Only the Higher Judicial Council may dismiss judges for cause, such as corruption. Headed by the President of the Court of Cassation, the Council regulates judicial promotions and transfers. The government included lectures on human rights and other social issues in its training courses for prosecutors and judges.

In the civilian court system, there are criminal courts, civil courts, administrative courts, and the Supreme Constitutional Court. There are three levels of regular criminal courts: primary courts, appeals courts, and the Court of Cassation, which represents the final stage of criminal appeal. Civil courts hear civil cases and administrative courts hear cases contesting government actions or procedures; both systems have upper-level courts to hear appeals. The Supreme Constitutional Court hears challenges to the constitutionality of laws or verdicts in any of the courts.

A lawyer is appointed at the state's expense if the defendant does not have counsel. Appointed lawyers are drawn from a roster chosen by the Bar Association. Defendants can appeal if denied this right; however, detainees in certain high-security prisons continued to allege that they were denied access to counsel or that such access was delayed until trial, thus denying counsel the time to prepare an adequate defense (see sections 1.c. and 1.d.). A woman's testimony is equal to that of a man in court. No law prohibits a woman serving as a judge; however, there has only been one female judge (see section 5).

In 2003, the government formally abolished state security courts. The courts had been criticized for restricting the rights of defendants, particularly the right to appeal. A number of cases referred to the state security courts were transferred to regular criminal courts. However, skeptical observers of the legal system argued that as long as the government retained and used emergency courts, the abolition of state security courts did not constitute a fundamental improvement.

The emergency courts share jurisdiction with military courts over crimes affecting national security. The president can appoint civilian judges to the emergency courts upon the recommendation of the minister of justice or military judges upon recommendation of the minister of defense. Sentences are subject to confirmation by the president. There is no right to appeal. The president may alter or annul a decision of an emergency court, including a decision to release a defendant.

The government has asserted that referral to emergency courts usually has been limited to terrorism or national security cases, as well as major cases of drug trafficking; however, the government also has occasionally used emergency courts to prosecute homosexuals, heterodox religious groups, and political dissidents. Government authorities ignored judicial orders in some cases. The government has used the Emergency Law to try cases outside the scope of combating terrorism and grave threats to national security.

In August 2004, Public Prosecutor Maher Abdel Wahed told the press that the government intended to limit trials in emergency courts only to cases that touched upon security of the State. During the year, emergency courts issued verdicts in two cases.

On March 28, an emergency court in Cairo convicted citizen Mahmood Eid Mohammed Dabbous and Iranian diplomat Mohammed Hussein Reda Dawst (the latter in absentia), on charges of involvement in a 2004 terror attack in Saudi Arabia and conspiring to commit terrorism in Egypt, including a planned assassination of President Mubarak. Dabbous received 10 years' imprisonment for his involvement in a May 2004 attack on a Saudi petrochemical plant and 25 years for conspiring with Dawst to spy against Egypt. Dawst was also sentenced to 25 years' imprisonment. Dabbous's lawyers argued that his confession had been made under torture and duress, but the judges discounted his claims.

On March 30, the public prosecutor announced the government would try two detainees (Mohammad Gayez Sabah Hussein and Mohammad Abdallah Raba) and one fugitive (Mohammad Ahmed Saleh Feleifal) for involvement in the October 2004 Sinai attacks. The High State Security Emergency Court convened in Ismailia on July 2. The trial continued during the remainder of the year, though security forces killed fugitive Feleifal in August. On December 24, the government presented evidence that the injuries to one of the defendants were not consistent with torture.

The defense called a witness who testified that one of the accused was at work in al-Arish on the day of the attacks. After the December 24 session, the court announced that it would pronounce its verdict on February 25, 2006. If convicted, the defendants face the death penalty.

On September 26, a state security emergency court convicted Ezzat and Hamdan Hanafi, two brothers from Assiyut, of narcotics trafficking and kidnapping during a 2004 standoff with police, and sentenced them to death. Ezzat Hanafi issued a statement protesting his death sentence by an emergency court, which cannot be appealed, and requesting that President Mubarak use his authority as "military commander" under the state of emergency to order that the case be reviewed by a panel of civilian judges. At year's end, Hanafi was still awaiting a response.

According to a 1993 Supreme Constitutional Court decision, the president may invoke the Emergency Law to refer any crime, including charges against civilians, to a military court. Military verdicts were subject to a review by other military judges and confirmation by the president, who in practice usually delegated the review function to a senior military officer. Defense attorneys claimed that they were not given sufficient time to prepare and that military judges tended to rush cases involving a large number of defendants. Judges had guidelines for sentencing, defendants had the right to counsel, and statements of the charges against defendants were made public. Observers needed government permission to attend. Human rights activists have attended, but only when acting defense counsel.

*Political Prisoners.*—Political prisoners during the year included as many as 26 members of the illegal Islamic Liberation Party (Hizb al-Tahrir al-Islami), including three Britons. The members had been convicted in March 2004 by the Supreme State Security Emergency Court after being arrested in 2002. Sentences for most members ranged from 1 to 3 years' imprisonment; the three British prisoners received 5-year sentences, which presumably included time already served prior to conviction. Several of the defendants, including the three Britons, alleged they had been tortured to compel them to sign confessions.

On December 24, Ayman Nour, runner-up in September's presidential election, was convicted of forging proxy signatures on his party's registration papers and sentenced to five years in prison. Nour's detention and trial was fraught with irregularities and inconsistencies and failed to meet basic international standards. On January 29, Nour was arrested outside parliament and spent 43 days in detention before being released. On June 28, the trial of Nour and six codefendants began at Cairo Criminal Court. On June 30, at the second session, Ayman Ismail Hassan, a codefendant but also a chief witness for the prosecution, recanted the guilty plea he had entered June 28, testifying that he had been coerced by prosecutors into giving false evidence against Nour. On December 5, Judge Adel Abdel Salam Gom'a, who had previously presided over the two trials of Saad Eddin Ibrahim in 2001 and 2002, ordered Nour remanded to custody in Mazra' Torah prison, south of Cairo, in advance of the verdict; Nour was booked as a "convict" rather than a "defendant." Following his December 24 conviction, Nour's legal team announced its intention to appeal (see section 1.d.). Nour's trial was closely followed by the international community, as well as by domestic and international human rights organizations.

During the year, the government continued to try and convict journalists and authors for libel, as well as for expressing their views on political and religious issues (see sections 2.a. and 2.c.).

According to local human rights organizations, approximately 10,000 persons were detained without charge on suspicion of illegal terrorist or political activity (see section 1.d.). In addition, several thousand others were serving sentences after being convicted on similar charges.

The government did not permit international humanitarian organizations access to political prisoners (see section 1.c.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution provides for the sanctity and secrecy of the home, correspondence, telephone calls, and other means of communication; however, the Emergency Law suspends the constitutional provisions regarding the right to privacy, and the government used the Emergency Law to limit these rights. Under the constitution, police must obtain warrants before undertaking searches and wiretaps. Courts have dismissed cases in which warrants were issued without sufficient cause. Police officers who conducted searches without proper warrants were subject to criminal penalties, although penalties seldom were imposed. However, the Emergency Law empowers the government to place wiretaps, intercept mail, and search persons or places without warrants. Security agencies frequently placed political activists, suspected subversives, journalists, foreigners, and writers under surveillance, screened their cor-

respondence (especially international mail), searched them and their homes, and confiscated personal property.

A telecommunications law allows telephone and Internet wiretaps only by court order. However, some human rights observers alleged that the government routinely violated this law.

Although the law does not explicitly criminalize homosexual acts, police have in the past targeted homosexuals using Internet-based “sting” operations leading to arrests on charges of “debauchery.” There were no reports of Internet entrapment cases during the year (see sections 1.c, 1.e., and 2.a.).

The Ministry of Interior has the authority to stop specific issues of foreign newspapers from entering the country on the grounds of protecting public order. There were no reports that it had exercised this authority during the year (see section 2.a.).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the government partially restricted these rights in practice. The government used the Emergency Law to infringe on citizens’ civil liberties. Citizens openly expressed their views on a wide range of political and social issues, including vigorous criticism of government officials and policies and direct criticism of the president. Journalists and writers continued to practice some degree of self-censorship, but the year was also marked by a dramatic expansion of public debate, often through the media. Several new independent newspapers, including *Al-Masry Al-Youm* and *Al-Dustur*, played an important role in expanding freedom of speech. In addition, television talk shows on both government-owned and independent channels demonstrated an unprecedented degree of openness and critical debate.

During the year, a number of non-governmental organizations advocated political reform and openly criticized the government. This reflected a continued improvement in the government’s tolerance of dissent. In 2003, the Court of Cassation, ending a longstanding legal case that had broad implications for freedom of expression and human rights advocacy, acquitted Saad Eddin Ibrahim, director of the Ibn Khaldun Center, and codefendants on charges of defaming the state and illegally accepting foreign funds.

The constitution restricts ownership of newspapers to public or private legal entities, corporate bodies, and political parties. There were numerous restrictions on legal entities that sought to establish their own newspapers, including a limit of 10 percent ownership by any individual; however, this limit appeared to have been enforced sporadically.

The government owned stock in the three largest daily newspapers, and the president appointed their top editors. These papers generally followed the government line. The government also controlled the printing and distribution of newspapers, including those of the opposition parties.

Opposition political parties published their own newspapers. Most opposition newspapers were weeklies, with the exception of the dailies *Al-Wafd*, *Al-Ahram*, and a new entrant, *Al-Ghad*, all of which had small circulation. Opposition newspapers frequently published criticism of the government. They also gave greater prominence to human rights abuses than did state-run newspapers.

The Penal Code, Press Law, and Publications Law govern press issues. The Penal Code stipulates fines or imprisonment for criticism of the president, members of the government, and foreign heads of state. The Press and Publication Laws ostensibly provide protection against malicious and unsubstantiated reporting. In recent years, opposition party newspapers have published articles critical of the president and foreign heads of state without being charged or harassed. However, the government continued to charge journalists with libel. An editor-in-chief found to be negligent could be considered criminally responsible for libel contained in any portion of the newspaper.

On April 13, Cairo Criminal Court sentenced in absentia three journalists from *El-Masry El-Youm* newspaper to one year imprisonment and a \$1750 (LE 10,000) fine in damages for libeling Mohamed Ibrahim Soliman, minister of housing, utilities, and urban communities. Abdel Nasser Ali, Youssef el-Aoumi, and Alaa Yaha Mohamed el-Ghatrify were convicted for reporting in August 2004 that police had searched the offices of Housing Minister Soliman and denied him access. The sentencing of the three journalists occurred despite President Mubarak’s February 2004 announcement of support for legislation barring courts from sentencing to jail those convicted of defamation or other publishing offenses. Notwithstanding the sentence, the three journalists remained free at year’s end.

During the year, the courts tried several prominent cases of libel, filed both by government officials and private citizens. On April 7, a Cairo court acquitted Magdi

Ahmad Hussayn, editor-in-chief of the suspended *Al-Sha'b* newspaper (the party publication of the frozen Socialist Labor Party), of charges that he had "abused and defamed" former agriculture minister Yusuf Wali by publishing a story on the Sha'b Web site charging that Wali had conspired with Yusuf Abdel Rahman, a former undersecretary in the Ministry of Agriculture, to import carcinogenic pesticides into the country.

On May 13, security forces arrested nine members of an Al-Jazeera news crew and detained them in the Lazoughly state security office for seven hours after the journalists attempted to cover a general meeting of the Cairo Judges' Club.

On June 20, EOHR issued a report condemning the May 25 assaults on journalists, and called for immediate government measures to address what EOHR described as a pattern of harassment and assault against journalists; regular disregard of the protections afforded to journalists under the Press Law; investigations of journalists by the public prosecutor's office; unmerited lawsuits against journalists; and judgments against journalists, including fines and prison sentences (see section 2.b.).

On November 9, Al-Jazeera journalist Ahmed Mansour was assaulted and beaten by two unidentified men as he prepared to interview an opposition politician. The Mansour case recalled a November 2004 incident, when unknown assailants abducted and beat Abdul Halim Qandil, editor of the Nasserist opposition party newspaper *Al-Araby*, and left him stranded naked on a desert highway. Qandil and many others in the media attributed the attack to elements of the State Security apparatus who were angered by Qandil's editorial calls for public opposition to the government. There was no action taken by the government during the year to address Qandil's complaint.

Only the cabinet can place a long-term ban on a foreign publication. The Ministry of Information is empowered only to ban particular issues or editions in the interest of public order. Under the law, the public prosecutor may issue a temporary ban on the publication of news related to national security. The length of the ban is based on the length of time required for the prosecution to prepare its case. Beginning in August, the government imposed a local news ban on reporting on security operations in the Sinai against suspects allegedly involved in the July terror bombings in Sharm El-Sheikh.

The law authorizes various ministries to ban or confiscate books and other works of art upon obtaining a court order. There were no court-ordered book confiscations during the year, but the government permitted greater confiscatory authority to Al-Azhar University and acted on its recommendations. In October, the government enforced a ban, formally recommended by the Islamic Research Council of Al-Azhar, of *Wahhabi Islam: From Revival and Reform to Global Jihad*, by Natana De Long-Bas, published by the American University in Cairo (AUC) Press. On October 8, the government informed AUC that all 1000 copies, held at Port Said, would be impounded because the book contained "information not in accordance with the principles of Islam." On December 22, AUC Press learned that the government had reversed its decision and would allow importation of the book.

The Ministry of Interior regularly confiscated leaflets and other works by Islamists and other critics of the state. Members of the illegal Muslim Brotherhood also were arrested in connection with publications (see sections 1.d. and 3). In many cases, the press reported that police confiscated written materials such as leaflets during the arrests.

Unlike in previous years, the Ministry of Interior did not prevent specific issues of foreign-published newspapers from entering the country on the grounds of protecting public order (see section 1.f.). The cabinet may order the banning of works that it deems offensive to public morals, detrimental to religion, or likely to cause a breach of the peace.

On February 8, the Ministry of Information censored an article on political reform in the English-language monthly *Egypt Today*, after already approving the article in a prepublication review. Several days after copies had already been on newsstands, distributors were forced to tear out four pages of the censored article before sales could resume. The article in question, "On the Hustings," discussed recent statements by political opposition figures indicating that they might run against President Mubarak in 2005, if the constitution were amended to allow for competitive, direct elections.

The government controlled and censored the state-owned broadcast media. The Ministry of Information owned and operated all ground-based domestic television and radio stations. Two private satellite stations, Al-Mihwar and Dream TV, began broadcasting in 2001 and have operated without direct government interference, although the government has a financial stake in both. The government did not block reception of foreign channels via satellite. The percentage of citizens who received

satellite television broadcasts has grown steadily but remained small, while many coffee shops and other public places offered satellite television.

Plays and films must pass Ministry of Culture censorship tests as scripts and final productions. The ministry censored foreign films to be shown in theaters, but was more lenient regarding the same films in videocassette or DVD format. Government censors ensured that foreign films made in the country portrayed the country in a favorable light.

Approximately five million persons in the country used the Internet. The government did not restrict Internet use, but selectively monitored it (see section 1.f.). According to a November HRW report, the government deserved recognition for its "ambitious program to expand Egyptians' access to information over the Internet—with impressive results . . . . Many Egyptian human rights activists say that Internet access has considerably strengthened the reach and effectiveness of the movement in Egypt." HRW also noted, however, that the Ministry of Interior, the prosecutor general, and the security services "detained individuals for their activities online, . . . monitored online communications without first obtaining search warrants . . ." and "have blocked Web sites associated with the Muslim Brotherhood . . . and the al-Amal (Labor) Party . . . ."

In late October, SSIS in Alexandria arrested and detained without charge for several weeks a 21-year old Alexandria law student, Abdul Karim Nabil Soliman, apparently because his Internet Web log ("blog") carried strongly worded attacks against Islam, the government, and the president. Soliman was released without charge.

The government did not explicitly restrict academic freedom at universities; however, the government selected deans rather than permitting the faculty to elect them. The government justified the measure as a means to combat Islamist influence on campus. A June HRW report was critical of the government's efforts to limit academic freedom on campuses, saying that the government censored course books, outlawed research about controversial issues, and intimidated student activists. HRW also reported that the government failed to protect citizens from Islamist militants who publicly attack professors and students. According to HRW, government policies have led to an "environment of self-censorship," occasional detention and abuse of student activists by state security forces, and interference by state-appointed deans with class discussions and selection of research topics.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the government restricted the exercise of this right. Citizens must obtain approval from the Ministry of Interior before holding public meetings, rallies, and protest marches. Many demonstrations were not approved, and the government tightly controlled public demonstrations that did occur. Unlike in previous years, however, numerous, unauthorized demonstrations in support of political reform took place during the year, and security forces, while still strictly containing these events, generally took a more disciplined, observer role in permitting the demonstrations to take place. However, in response to anti-government demonstrations on May 25 and July 30, pro-government thugs and plainclothes security forces assaulted dozens of demonstrators, including women.

During the May 25 national referendum to revise the constitution, pro-government thugs, possibly including undercover security personnel, attacked and beat several groups of opposition protesters (including demonstrators affiliated with the Kifaya Movement) and journalists, and assaulted and sexually humiliated several women journalists and protesters.

On July 30, about 200 demonstrators gathered in Cairo following a call for assembly by the Kifaya and other opposition movements to protest President Mubarak's intention to seek a fifth term. The protesters were attacked by uniformed security forces and men in plain clothes armed with truncheons. The demonstrators had sought to assemble in the downtown Tahrir Square, but when they arrived the square was closed off by security forces, which forced them to disperse into several groups heading to several parts of the city. There, numerous demonstrators, including human rights activists, were beaten and dragged along the ground. Thirty persons were arrested and reportedly detained in unofficial detention centers, in the camps of the central security forces in Darassa, Cairo. By August 2, all of the detainees had been released.

In general, the year was marked by an increasing number of political demonstrations across Egypt, particularly those organized by Kifaya and the Muslim Brotherhood; most were marked by some degree of government interference. The Ministry of Interior generally deployed a disproportionate number of riot police to contain both the size and effectiveness of the demonstrations. A pattern of arresting dem-

onstrators, detaining them for at least 15 days “pending further investigation” emerged, particularly in cases of unauthorized rallies and especially those occurring near or around parliament.

In a number of unauthorized demonstrations, police detained suspected organizers, some of whom alleged mistreatment while in detention (see sections 1.c. and 1.d.).

The Kifaya movement organized numerous demonstrations throughout the year, including a March 30 protest where 300 to 400 demonstrators gathered in front of the Press Syndicate building in Cairo demanding a repeal of the emergency law and holding banners rejecting another term for President Mubarak. In late April, Kifaya held demonstrations simultaneously in 13 cities under the banner “no constitution without freedom.” Hundreds of riot police and security forces surrounded demonstrators, arresting 50 in Cairo and over 100 in other governorates. There were reports that security forces used batons and clubs to beat back demonstrators, while sealing off roads to break up the demonstrations (see section 1.d.).

On February 24, ten unidentified thugs in tracksuits disrupted a meeting, organized by the Word Center for Human Rights, at Cairo’s Pyramisa Hotel. The thugs threatened participants, overturned tables, and took cell phones and petty cash belonging to some of the participants. The meeting, which was attended by members of the al-Ghad Party (whose leader Ayman Nour had been detained on forgery charges on January 29), was focused on the prospects for constitutional reform to permit the direct election of the president. Although the identities of the thugs were never determined, eyewitnesses said that their appearances and speech suggested that they were members of the security forces.

Members of the MB also staged a number of larger protests throughout the year, though these demonstrations, unlike those of Kifaya, often met stiff resistance from security forces (see section 1.d.).

On March 27, central Cairo came to a standstill as the government deployed thousands of riot police to thwart a major demonstration by the Muslim Brotherhood. On May 4, MB members and sympathizers, reported to number in the thousands, conducted simultaneous demonstrations in Cairo and six other governorates. In response, the government arrested four hundred demonstrators, according to an interior ministry announcement.

Other groups also organized demonstrations, and the government responded in similar fashion. On March 28, Cairo police dispersed demonstrators in front of the People’s Assembly building in downtown Cairo demanding reform and the rewriting of the constitution. Fifty protesters were arrested.

On January 28, media and NGO sources reported that 500 demonstrators gathered outside El-Arish’s central mosque. Among the protesters were female family members of Sinai residents who had been detained by the government during the investigation into the October 2004 bombings. The protesters called for release of those arrested during the investigation. The security forces used tear gas to disperse the crowd.

Through the winter and early spring, family members of detainees continued to engage in regular protests. For example, on April 8, 140 women, many of them relatives of citizens arrested after the October 2004 bombings in the Sinai peninsula, held a sit-in in the leftwing Tagamu party’s headquarters in the northern town of El-Arish to protest arbitrary detentions. The Ministry of Interior deployed 500 riot police to counter the protest.

On April 19, dozens of university professors in Cairo, Minya, and Assiyut, calling themselves “professors for change,” conducted public demonstrations on their respective campuses to protest the presence and interference of the SSIS in campus life.

On May 10, Cairo University professors staged a symbolical sit-in strike to protest the detention of two fellow professors on charges of membership of the Muslim Brotherhood organization.

In early May, Ayman Nour and other al-Ghad Party figures reported that Nour’s efforts to campaign for president had been disrupted by unidentified thugs who hurled bottles, insults, and garbage when he visited Nile Delta locations.

On May 31, the public prosecutor vowed to investigate allegations of beatings and sexual assaults of demonstrators and journalists, including women, during the May 25 constitutional referendum. Twenty-two leading human rights NGOs, including EOHR and HRAAP, in conjunction with the Journalists’ Syndicate, called for a full investigation into the attacks and the removal of the minister of interior. By year’s end, the public prosecutor had suspended the investigation, asserting that “there (was) no evidence declaring the doer of the assaults,” (i.e., the case could not be pursued because it was impossible to determine the identities of those who committed the assaults).

The Ministry of Interior selectively obstructed some meetings scheduled to be held on private property and university campuses (see section 4).

On a number of occasions, worshippers at the Al-Azhar mosque in Cairo held mainly impromptu demonstrations at the conclusion of Friday prayers. These were tolerated but carefully watched by the government.

*Freedom of Association.*—The constitution provides for freedom of association; however, the government significantly restricted the exercise of this right. The minister of insurance and social affairs has the authority to dissolve NGOs by decree. The law also requires NGOs to obtain permission from the government before accepting foreign funds. According to government officials, funds from foreign government donors with established development programs in the country were excluded from this requirement.

During the year, a number of organizations active in human rights advocacy and civil society development were allowed to register and thus became officially recognized. However, several other groups, including the Egyptian Association Against Torture, the Center for Housing Rights, and the Word Center, continued to face opposition from the government in their effort to register as NGOs. During the year dozens of NGOs and civil society groups worked together in three major coalitions and several smaller groupings to pool resources, expertise, and volunteer staff to monitor and report on the presidential and parliamentary elections. These groups did not generally receive the governmental accreditation and access to polling stations and vote counts that they requested, and in a number of cases they reported harassment, brief detentions for questions by security officials, and other forms of interference. The domestic monitoring coalitions were nevertheless able to play a leading role in monitoring and reporting on the presidential and parliamentary elections.

Under legislation governing professional syndicates, at least 50 percent of the general membership of an association must elect the governing board. Failing a quorum, a second election must be held in which at least 30 percent of the membership votes for the board. If such a quorum is unattainable, the judiciary may appoint a caretaker board until new elections can be scheduled. The law was adopted to prevent well-organized minorities, specifically Islamists, from capturing or retaining the leadership of professional syndicates. Members of the syndicates have reported that Islamists have used irregular electoral techniques, such as physically blocking polling places and limiting or changing the location of polling sites.

A July HRW report concluded that the extralegal role of the security services resulted in a serious barrier to meaningful freedom of association. The report documented multiple cases where the government rejected NGO registrations, decided who could serve on NGO boards of directors, harassed NGO activists, and interfered with donations reaching the groups. The report further criticized the NGO Law's restriction on political and union-related activity and recommended legal reform to overturn the "host of intrusive administrative practices that stunt organizing by civil society groups, and provide ample means for state interference in their affairs."

*c. Freedom of Religion.*—The constitution provides for freedom of belief and the practice of religious rites; however, the government placed restrictions on the exercise of these rights. According to the constitution, Islam is the official state religion and Shari'a (Islamic law) the primary source of legislation. Religious practices that conflict with the government's interpretation of Shari'a are prohibited. Members of the non-Muslim religious minority officially recognized by the government generally worshiped without harassment and maintained links with coreligionists in other countries; however, members of religions not recognized by the government, particularly the Baha'i Faith, experienced personal and collective hardship. Most citizens (approximately 90 percent) are Sunni Muslims. There is a very small number (a fraction of 1 percent) of Shi'a Muslims. The percentage of Christians in the population ranged from the government's unofficial estimate of 8 percent (approximately 5.6 million) to Christian estimates of 12 to 15 percent (approximately 8.6 to 10.8 million), the majority of whom belonged to the Coptic Orthodox Church. There were small numbers of other Christian denominations, including Mormons and Jehovah's Witnesses, a Baha'i community of approximately 2,000 persons and a small Jewish community of less than 200 persons.

All mosques must be licensed, and the government attempted to supervise them closely for the stated purpose of combating extremists. The government appoints and pays the salaries of the imams who lead prayers in mosques, and it monitors their sermons; however, it does not contribute to the funding of Christian churches. During the year, the Minister of Awqaf announced that of the more than 92,500 mosques in the country, the government administratively controlled 74,500 regular mosques and 18,000 zawaya (smaller mosques located in private buildings). The

government annexes new mosques every year, but the process did not keep pace with new mosque construction; however, a February 2004 decree from the Minister of Awqaf deprived governors of unilaterally issuing permits to build mosques and placed mosques in private homes under Awqaf administrative control.

Local government officials continued to prevent new churches from being built, often requiring an exhaustive list of documents to be submitted multiple times between administrative and security departments of governorates, in repeated attempts to preclude final authorization, despite presidential and interior ministry approvals for a building permit to be issued. As a result, congregations have experienced lengthy delays—lasting for years in many cases—while waiting for new church building permits to be issued. Authorities have also refused to issue decrees for restoration, renovation, and expansion of churches, or have failed to enforce decrees that have already been approved. Local authorities have also closed down unlicensed buildings used as places of worship.

According to statistics in the government's Official Gazette, 12 presidential decrees were issued from July 1, 2004 through June 30, 2005, for church-related construction, compared with 7 permits reported during the previous period; half of these 12 permits were for evangelical Christian churches, 5 for Coptic churches, and 1 for a Catholic church. The government also reported that 20 new churches were built in 11 governorates during 2004–05 and that 23 churches were renovated during the same period. Government officials have previously asserted that the government approves a much larger number of projects for church construction and expansion, through informal arrangements between church authorities and local security and administrative officials. Overall, the approval process for church construction continued to be hindered by delays often measured in years.

Despite decrees issued by President Mubarak in 1998 and 1999 to facilitate approvals for repairing, renovating, expanding, and building churches, societal attitudes long nurtured by the 1856 Hamayouni decree and the 1934 El-Ezabi decree, and encouraged by some local security and governmental officials, continued to hinder efforts by Christians to obtain the permits required for such construction.

On December 9, updating the 1998–99 decrees, President Mubarak issued a new decree that devolved church repair and reconstruction decisions to the governorate level and stipulated that churches would be permitted to proceed with rebuilding and repair simply by notifying the governorate administration in writing. Permits for construction of new churches remained subject to presidential decree.

Numerous complaints of delayed church construction and repair projects continued to be reported during the period covered by this report. Elements within the government, often local administrative or security officials, continued to impede church repair and construction projects.

Although the National Council for Human Rights did not give significant attention in its report to issues of religious freedom, it submitted a total of 27 requests to the Ministry of Interior and several governorates in Upper Egypt requesting action on numerous complaints it had received concerning alleged violations of religious freedom. Twenty-three of the requests the Council submitted dealt with church repair and construction; however, according to the Council's report, the ministry had not responded to any of the requests.

On July 6, the Administrative Judiciary Court in Alexandria annulled a decree issued by the Minister of Information banning the appearance of veiled anchorwomen in television programs. The court established that the Ministry of Information's decree violated Article 47 of the constitution, which guarantees freedom of religion.

Rulings concerning marriage, divorce, alimony, child custody, and burial, are based on an individual's religion. In the practice of family law, the government recognizes only the three "heavenly religions": Islam, Christianity, and Judaism. Muslim families are subject to Shari'a, Christian families to Canon law, and Jewish families to Jewish law. In cases of family law disputes involving a marriage between a Christian woman and a Muslim man, the courts apply Shari'a. The government does not recognize the marriages of citizens adhering to faiths other than Christianity, Judaism, or Islam. Some citizens who sought to formalize marriages not recognized under Egyptian law resorted to travel abroad to countries that would allow them to marry under civil law.

Neither the constitution nor the Civil and Penal Codes prohibits proselytizing, but those accused of proselytizing have been harassed by police or arrested on charges of violating Article 98(F) of the Penal Code, which prohibits citizens from ridiculing or insulting "heavenly religions" or inciting sectarian strife.

There are no legal restrictions on the conversion of non-Muslims to Islam; conversion of Muslims to Christianity, however, is prohibited by Shari'a. There were occasional reports that police harassed those who had converted from Islam.



In April 2004, an administrative court issued a verdict allowing Mona Makram Gibran, who had converted to Islam and later converted back to Christianity, to recover her original (Christian) name and identity. Some legal observers believed the case would constitute a significant precedent as the government has otherwise refused to acknowledge citizens' conversions from Islam to Christianity. During the year, there were at least 49 other cases involving individuals who converted to Islam and then back to Christianity, who are currently attempting to recover their original Christian identities. Approximately 8 of these 49 individuals have received verdicts allowing them to recover their Christian identities. The Ministry of Interior has appealed two of these cases, which were before the Supreme Administrative Court at year's end.

With the exception of the eight above-mentioned cases, resistance to such conversions by local officials constituted a prohibition in practice. In the absence of a legal means to register their change in religious status, some converts have resorted to soliciting illicit identity papers, often by submitting fraudulent supporting documents or bribing the government clerks who process the documents. In such cases, authorities periodically charge converts with violating laws prohibiting the falsification of documents.

Under Shari'a, as practiced in the country, non-Muslim males must convert to Islam to marry Muslim women, but Muslim men need not convert to marry Christian women. A non-Muslim wife who converts to Islam must divorce her "apostate", non-Muslim husband, if he refuses to convert as well. Custody of children is then awarded to the mother. In general, the minor children of converts to Islam, and in some cases adult children, are automatically classified as Muslims in the eyes of the government irrespective of the religion of the other spouse. This is in accordance with the government's interpretation of Shari'a, which dictates "no jurisdiction of a non-Muslim over a Muslim."

In April, the Family Court granted the divorce of Wafaa Riffat Adly, a Christian woman who had converted to Islam, from her Christian husband Said Farouk Adly after he refused to convert.

The Coptic Orthodox Church excommunicates women members who marry Muslim men and requires that other Christians convert to Coptic Orthodoxy to marry a member of the Church. In cases where a non-Muslim woman wishes to convert to Islam, civil laws require her to meet with her family, her priest, and the head of her church before she is allowed to convert.

Coptic males are prevented from marrying Muslim women by both civil and religious laws. A civil marriage abroad is an option should a Christian male and an Egyptian Muslim female desire to marry; however, if the couple returned to Egypt, their marriage would not be legally recognized. Additionally, the woman could be arrested and charged with apostasy, and any children from such a marriage could be taken and assigned to the physical custody of a male Muslim guardian, as determined by the government's interpretation of Shari'a. The Coptic Orthodox Church permits divorce only in specific circumstances, such as adultery or conversion of one spouse to another religion.

There were no reports of forced religious conversion carried out by the government; however, there were again unsubstantiated reports of forced conversions of Coptic women and girls to Islam by Muslim men. Reports of such cases were disputed and often included inflammatory allegations and categorical denials of kidnapping and rape. Observers, including human rights groups, found it extremely difficult to determine whether compulsion was used, as most cases involved a Coptic female who converted to Islam when she married a Muslim man. Reports of such cases almost never appear in the local media.

While there is no legal requirement for a Christian girl or woman to convert to Islam to marry a Muslim man, conversion to Islam has been used to circumvent the legal prohibition on marriage under the age of 16 or marriage between the ages of 16 and 21 without the approval and presence of the girl's male guardian (usually her father). The law only recognizes the willing conversion to Islam of any person over age 16. However, there are credible reports of local government authorities failing to uphold the law. Local authorities sometimes allow custody of a minor Christian female who "converts" to Islam to be transferred to a Muslim custodian, who is likely to grant approval for an underage marriage. Some Coptic activists maintain that government officials do not respond effectively to instances of alleged kidnapping. In cases of marriage between an underage Christian girl and a Muslim man, there have been credible reports that government authorities have failed to sufficiently cooperate with Christian families seeking to regain custody of their daughters.

Inheritance laws for all citizens are based on the government's interpretation of Shari'a. Muslim female heirs receive half the amount of a male heir's inheritance,

while Christian widows of Muslims have no inheritance rights. A sole heiress receives half her parents' estate; the balance goes to designated male relatives. A sole male heir inherits all his parents' property. Male Muslim heirs face strong social pressure to provide for all family members who require assistance; however, this assistance is not always provided. Under Shari'a, converts from Islam lose all rights of inheritance; however, because the government offers no legal means for converts from Islam to Christianity to amend their civil records to reflect their new religious status, inheritance rights will, therefore, appear not to have been lost.

Article 19 of the constitution requires elementary and secondary public schools to offer religious instruction. Public and private schools provide religious instruction according to the faith of the student.

The government occasionally prosecuted members of religious groups whose practices deviated from mainstream Islamic beliefs and whose activities were believed to jeopardize communal harmony. On March 31, the Maadi misdemeanor court issued a verdict in a blasphemy case involving Ibrahim Ahmad Abu Shusha and 11 of his followers, who had been detained without an arrest warrant since July 2004. The court sentenced Abu Shusha to three years' imprisonment for claiming to be divine and for ridiculing a heavenly religion, namely Islam. The court sentenced the 11 other defendants (including three women, two of whom are Abu Shusha's wives) to one year's imprisonment and ordered the leaflets and writings propagating the group's ideology confiscated. The court reasoned that there was sufficient evidence to show that Abu Shusha embraced beliefs contrary to and derogatory of Islam and that he tried to propagate those beliefs by attempting to show that he possessed divine powers. The court also asserted that freedom of belief does not constitute permission to deny the principles of heavenly religions. An appeals court reaffirmed the Abu Shusha sentences on July 16.

In May 2003, SSIS arrested Metwalli Ibrahim Metwalli Saleh. Metwalli's unpublished research, which he distributed to religious scholars and several embassies prior to his arrest, refuted the idea that it is a Muslim's religious duty to kill an "apostate" and also argued that Islam permits a Muslim woman to marry a non-Muslim man. SSIS detained Metwalli, a graduate of Al-Azhar University, without charge for nearly two months until July 2003 when he was charged by the State Security Prosecutor with "contempt of Islam" under Article 98(f) of the Penal Code. Following an investigation, the state security prosecutor ordered Saleh released in late October 2003; however, the Ministry of Interior continued to detain him under the Emergency Law. After each of five separate rulings from the Supreme State Security Emergency Court ordering his release—the most recent of which occurred on June 30—the ministry renewed the detention order under the Emergency Law. There were credible reports that Metwalli's wife and son were harassed and threatened at home in late June by SSIS officers, following demonstrations against Metwalli's continued detention. Metwalli remained in detention in Al-Wadi al-Gadid Prison, near Assiut, at year's end.

Shiite Muslim Mohamed Ramadan Hussein El-Derini, arrested in March 2004 apparently because of his religious beliefs, was released in June after having spent 15 months in administrative detention without charge or trial. Derini was freed following four separate rulings by the Supreme State Security Emergency Court ordering his release and an advisory opinion issued by the UN Working Group on Arbitrary Detention. Following each ruling by the court, the minister of interior issued a new administrative detention decree, under the Emergency Law, nullifying the court's release order. There were credible reports that the SSIS repeatedly tortured and mistreated Derini in custody. Derini's arrest came in the wake of the arrests of at least eight other Shi'a Muslims in December 2003 in the Red Sea coastal town of Ras Gharib, again apparently due to their affiliation with Shi'a Islam, which is not officially recognized by the government but acknowledged as a branch of Islam by Al-Azhar. The other detainees were released in 2004 after detention periods ranging from several weeks to eight months.

The Islamic Research Center of Al-Azhar University has authority to recommend that the government censor books on religious grounds. It did so during the year (see section 2.a.).

*Societal Abuses, Discrimination and Anti-Semitism.*—There generally continued to be religious discrimination and sectarian tension in society during the year. Tradition and some aspects of the law discriminated against religious minorities, including Christians and particularly Baha'is.

Article 40 of the constitution provides for equal public rights and duties without discrimination based on religion or creed, and in general the government upholds these constitutional protections; however, government discrimination against non-Muslims exists. There are no Christians serving as presidents or deans of public universities and they are rarely nominated by the ruling party to run in elections

as NDP) candidates. At year's end, there were 6 Christians (5 appointed; 1 elected) in the 454-seat People's Assembly; 6 Christians (all appointed) in the 264-seat Shura Council; and 2 Christians in the 32-member Cabinet. Christians, who represent approximately 10 percent of the population, currently hold less than 2 percent of the seats in the People's Assembly and Shura Council.

There also are few Christians in the upper ranks of the security services and armed forces. Government discriminatory practices continued to include discrimination against Christians in public sector employment, in staff appointments to public universities, by payment of Muslim imams through public funds (Christian clergy are paid by private church funds), and by refusal to admit Christians to Al-Azhar University (a publicly-funded institution). In general, public university training programs for Arabic language teachers refuse to admit non-Muslims because the curriculum involves the study of the Qur'an. There have been no reports of Christian graduates since 2001.

In October, sectarian tensions erupted in the Muharam Bek area of Alexandria after Muslim protests sparked by the earlier production at the Mar Guirguis Church of a play, which allegedly blasphemed Islam and which had been distributed on DVD. On October 19, a lone Muslim man assaulted a novice and a lay worker at the church. On October 21, after Friday prayers, a large crowd gathered outside the church. After some in the crowd threatened the church, security forces used tear gas and rubber bullets to disperse the crowd. Three Muslim protesters died in the ensuing violence.

In December 2004, a three-way standoff at Cairo's Abbasiya Cathedral involving Christian protesters, orthodox church officials, and security forces ended with the return of Wafaa' Constantin, the wife of a Coptic Orthodox priest in the Nile Delta province of Beheira, to the protective custody and supervision of the church following her apparent elopement with a Muslim man in late November. Although dozens of protesters and police were injured during the standoff, police did not respond with decisive force and made a notable effort to cooperate with church authorities. Church officials admitted in a December 10 press conference that Wafaa' had not been forced to convert to Islam against her will. During the year, Wafaa' reportedly remained in seclusion in a Coptic Orthodox facility.

In 2000, Shayboub William Aarsal, a Coptic Christian, was convicted and sentenced for the 1998 murders of two Copts in al-Kush. His appeal, which has been pending for 5 years, had still not been heard by year's end. There was a widespread perception in the local Christian community that Shayboub was convicted because of his religion.

Egypt's small Jewish community numbers approximately 200, most of them senior citizens. Anti-Semitic sentiments appeared in both the pro-government and opposition press; however, there have been no violent anti-Semitic incidents in recent years. Anti-Semitic articles and opinion pieces appeared in the print media, and similar editorial cartoons appeared in the press and electronic media. For example, Nile Culture TV on November 27 broadcast a program entitled "A Study of Israel's History" wherein the narrator said that Jews "extorted the world by exaggerating what was done to them in World War II, and they are still benefiting from this extortion, in the form of money and aid, from countries that still have a guilt complex regarding Hitler's crematoria—for which there is no proof, except for the Zionists' propaganda." The program also presented the views of journalist Mohammad Al-Qudussi, who said, "in the six years or so of World War II, it is not possible that six million Jews could have been burnt."

On December 12, columnist Hisham Abd Al-Rauf, in an article entitled "Israel's Lies" in the government-controlled evening newspaper Al-Masaa, asserted that Nazi gas chambers "were no more than rooms for disinfecting clothing." Addressing Western governments Abd Al-Rauf asked, "If you feel sorry of the poor Jews, why don't you establish their country on your lands?"

The government reportedly has advised journalists and cartoonists to avoid anti-Semitism. Government officials insist that anti-Semitic statements in the media are a reaction to Israeli government actions against Palestinians and do not reflect historical anti-Semitism; however, there are few public attempts to distinguish between anti-Semitism and anti-Israeli sentiment.

In January Jewish pilgrims celebrated the Rabbi Abu Hasira festival in the Nile Delta. The festival had not been celebrated during the previous three years after court decisions ruled that the site was not a protected antiquity.

The government continued to deny civil documents, including ID cards, birth certificates, and marriage licenses, to members of the Baha'i community. Law 263 of 1960, still in force, bans Baha'i institutions and community activities, and a 1961 Presidential decree stripped Baha'is of legal recognition. The problems of Baha'is, who number fewer than 2,000 persons, have been compounded since the Ministry

of Interior began to upgrade its automation of civil records, including national identity cards. The government asserted that its new software requires all citizens to be categorized as Muslims, Christians, or Jews, although some Baha'is initially received identity cards that listed their religion as "other." During the year, Baha'is and members of other religious groups were compelled either to misrepresent themselves as Muslim, Christian or Jewish, or go without valid identity documents. Most Baha'is have chosen the latter course. The government's unwillingness to issue Baha'is identity cards and other necessary documents made it increasingly difficult for Baha'is to register their children in school, to open bank accounts, and to register businesses. At the end of 2004, some Baha'is reported that government representatives had offered them passports but no other documents. Police, often on public buses, conduct random inspections of identity papers, and anyone without an ID card risks arrest and detention until the document is provided to the police. Some Baha'is, unable to receive identity cards, choose to stay home to avoid possible arrest.

In 1997, a human rights activist filed a lawsuit seeking the removal of the religious affiliation category from government identification cards. The plaintiff challenged the constitutionality of a 1994 decree by the minister of interior governing the issuance of new identification cards. A hearing scheduled for February 25 never took place. The court informed the attorney for the plaintiff that the case documents had been withdrawn and forwarded to the president of the State's Council, a highly unusual procedure. A new hearing date set for October 14 did not take place. By year's end, there had been no additional progress.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice; however, there were some notable exceptions. Citizens and foreigners were free to travel within the country, except in certain areas designated as military zones. Males who have not completed compulsory military service may not travel abroad or emigrate, although this restriction may be deferred or bypassed under special circumstances. Unmarried women under the age of 21 must have permission from their fathers to obtain passports and travel. Married women no longer legally require the same permission from their husbands; however, in practice police reportedly still required such permission in most cases (see section 5). Citizens who left the country had the right to return.

The constitution prohibits forced exile, and the government did not use it during the year.

The constitution includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. Apart from a 1954 agreement with UNHCR and two "technical decrees" from the Ministry of Interior relating to residence and travel, Egypt has no national legislative framework on asylum. The government generally did not issue work permits to refugees. The government admitted refugees on the understanding that their presence in the country was temporary. Because the country lacked national legislation or a legal framework governing the granting of asylum, UNHCR assumed full responsibility for the determination of refugee status on behalf of the government; however, the January 2004 peace accord in the Sudan led the UNHCR to halt new refugee status determinations in mid 2004. This led to protests by some Sudanese who sought refugee status and resettlement. The UNHCR provided recognized refugees with a refugee identification card that was considered a residence permit and bore the stamp of the national authorities. Refugees generally may not obtain citizenship.

During the year, approximately 31,000 recognized refugees (as well as individuals presenting asylum claims to UNHCR), resided in the country. Approximately 23,500 of these individuals were Sudanese nationals. (In addition, as many as 70,000 Palestinian refugees were registered with government authorities.) A total of 13,500 Sudanese were registered with UNHCR as refugees, but another 10,000 registered asylum seekers who sought formal refugee status. UNCHR halted refugee determinations in June 2004, after the January 2004 Sudanese peace accords, and ceased consideration of applications by Sudanese for resettlement abroad. Sudanese nationals protesting this decision periodically organized peaceful demonstrations. During random security sweeps the government periodically detained some refugees who were not carrying proper identification. Following intervention by the UNHCR, the refugees were released. Sudanese refugees, as well as those Sudanese who unsuccessfully sought refugee status, were part of a much larger community of Sudanese residents, many in Egypt illegally. Estimates of the total number of Sudanese range

from two to four million. Many Sudanese legally enter Egypt with short-term visas and then decide to remain.

In the early hours of December 30, security forces attempted to disperse several thousand refugees who had occupied a squatters camp since September in a small city park in the Mohandiseen district of Cairo near the UNHCR office. The refugees were protesting the UNHCR's decision in June 2004 to end processing of refugee determinations after the January 2004 peace accord in Sudan. At least 27 refugees died after police used water cannons and batons to force the refugees from the park. Refugees and human rights activists criticized the government for unnecessary use of force. The government contended that the deaths were the result of a stampede by panicked refugees, some of whom the government alleged were intoxicated, and that 74 police officers were injured. At year's end, the situation remained unresolved, with the government indicating that it might repatriate some of the refugees, and UNHCR and the international community urging the government not to repatriate any refugees who did not wish to return to Sudan.

There were occasional reports that human rights activists as well as members of the Muslim Brotherhood were briefly detained for questioning at international ports of entry and departure.

In late May, playwright Ali Salaam, known for his controversial stance on normalizing cultural ties with Israel, said he was prevented from leaving Egypt to receive a prize at an awards ceremony in Israel. Salaam, who was expelled from the Egyptian writers' union in 2001 for his pro-Israel stance, had caused controversy earlier in the year when he attended a conference in Israel on information technology in the Middle East. According to Salaam, passport authorities at both the Taba border crossing and at Cairo airport refused to permit him to exit on the grounds that he did not possess an "Authorization to Leave the Territory," a government-issued document required for workers suspected of traveling on a tourist visa but planning a long-term stay abroad. Political figures deemed controversial by the state are occasionally also refused permission to go abroad on the grounds that they do not possess the authorizations.

In December, MB leader Essam El-Erian was reportedly denied permission to travel to Lebanon and Morocco to participate in regional democracy meetings.

The disappearance of Yemeni dissident Ahmed Salem Ebeid, who EOHR alleged was sent by the government to Yemen, may have involved the forced return of a person to a country where he feared prosecution (see section 1.b.).

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

*Elections and Political Participation.*—Article 76 of the constitution, as amended on May 25, provides for a multi-candidate presidential election to be held every 6 years, replacing the referendum system in place since 1952. On September 7, in the country's first competitive presidential election, President Hosni Mubarak was elected to a fifth 6-year term, defeating nine other candidates representing political opposition parties. The government announced that Mubarak received 88 percent of the vote and that Ayman Nour of the Al-Ghad party, in winning 7 percent, had placed second.

Observers also noted a number of improvements in the electoral process compared to previous referenda. The election marked the first opportunity to select a president in a competitive process. Multiple political parties fielded candidates, and the campaign, though short, was marked by vigorous and uncensored public debate, and greater political awareness and engagement. Opposition coverage by the media was significant. Domestic election monitors and civil society groups were permitted, albeit only after the actual start of the polling, to observe the electoral process at some polling stations, and these groups were able to play a substantial oversight role despite operating in less-than-ideal conditions. Security forces acted with restraint, discipline, and impartiality—and cooperated in ensuring the safety of the domestic monitors; and there was virtually no violence either during the campaign or on election day.

Despite these improvements, press reports, voters, opposition groups, and civil society monitors also cited violations and fraud during the presidential election, including observations that NDP representatives were in control of many polling stations and pressured voters to support Mubarak; that sitting NDP parliamentarians mobilized voters by providing them transport and by using small bribes or threats to win votes for Mubarak; that voter lists were outdated and included the names of deceased persons; that nonresident or unregistered voters were allowed to vote for Mubarak and husbands were able to cast illegal proxy votes for their wives; that the NDP had exclusive control over voter lists in some areas and refused to make the lists available to all competing parties; that some polling places were located in

police stations; that the indelible ink used to mark voters' fingers was applied inconsistently and easily rubbed off; that there was confusion over voter registration, including who was registered and where persons were supposed to vote; that voters could not register to vote after January; and that the Presidential Election Commission, a nine-member body tasked with overseeing the election, suffered from a lack of transparency and accountability. Additionally, the government barred international election observer missions from observing the election. Domestic election monitors, using statistical sampling, said that voter turnout was lower than the 23 percent turnout reported by the government.

Under the amendment to article 76 of the constitution, approved on May 10 by the People's Assembly (PA) in a 405–49 vote and subsequently ratified in a May 25 national referendum, licensed and operating (not suspended) political parties can nominate candidates for the presidency, provided they have been in legal status as recognized parties for 5 continuous years and secured at least 5 percent of the elected seats in each of the PA and the Shura Council in the most recent parliamentary elections. A grandfather clause exempted currently licensed (and operating) parties from both the 5 percent representation and 5-year-existence rules for the 2005 presidential election only. Fourteen of the country's 18 licensed opposition political parties met the licensing and operating requirements; however, none would have qualified to field candidates in the presidential election without the one-time exemption clause, as no opposition party held the required 5 percent of elected seats in parliament.

The amendment also provides that candidates unaffiliated with political parties may run for president, provided they secure endorsements from at least 250 elected officials, to include at least 65 of the 444 elected members of the PA, at least 25 of 88 elected members of the Shura Council, and at least 10 elected members of local councils in each of at least 14 of 26 governorates. No independent candidates competed in this year's presidential election.

Presidential candidates were required to submit nomination applications to the Presidential Election Commission (PEC), a nine-member quasi-judicial body tasked with approving candidates and supervising the presidential election. Of the applications received, the PEC determined that 10 candidates, all nominees of established political parties, were qualified to run. The constitutional amendment stipulates that the PEC's decisions are final and not subject to dispute or appeal.

The Presidential Elections Law, as ratified by parliament, implemented the constitutional amendment and governed the presidential election on September 7. The law provided for the nine-member PEC, chaired by the President of the Supreme Constitutional Court and including three senior jurists and five other judges, to supervise the presidential election. The law also sets rules for campaign spending limits, mandates equal access to state media, and specifies the types of documents candidate hopefuls must submit to the PEC as part of the required election nomination application process.

Following the May 25 referendum on the constitutional amendment, parliament ratified several other laws which affected the functioning of the electoral system. The new Political Rights Law revised provisions of Law 73 of 1956 and established a ten-member Parliamentary Election Commission, headed by the minister of justice to oversee parliamentary elections. The law also set rules for establishing and updating voter lists, regulating campaigns, processing and announcing election results, and penalties for election-related fraud.

The Political Parties Law revised Law 40 of 1977, and increased the number of members required to form a new political party from 50 to 1,000. The law also expanded the membership of the Shura Council's Political Parties Committee (PPC), which reviews and approves or rejects applications by prospective political parties and may also withdraw recognition from existing parties, by adding six members from the general public, three of whom should be retired members of the judiciary. The law also provided that prospective new parties would be able to consider their submitted applications approved if, after 90 days, they are not officially rejected. In addressing foreign funding, the law prohibits political parties from accepting "any donation, privilege, or benefit from any foreigner (including Egyptian dual nationals) . . . or any foreign body or international body." Finally, the law offered government funding of LE 100,000 (\$17,000) to each political party, plus LE 5000 (\$870) for each parliamentary seat won by a party, to a maximum of LE 500,000 (\$8,700) for each party. The law also requires that no party can be licensed unless it offers a "unique and distinct program that enriches political life," or that new parties' programs must significantly differ from those of existing parties, which is the provision most commonly cited by the PPC for rejecting a party licensing application.

The Parliamentary Affairs Law governs the conduct of members of parliament and the qualifications required to hold a seat. The law requires that to serve in par-

liament, candidates born before 1970 must be able to read and write but those born after 1970 must also have an elementary education certificate. The law forbids parliamentary candidates from using places of worship, schools, or universities as campaign venues and forbids candidates from accepting foreign funds, including funds from citizens residing abroad.

The elections for the 444 open seats of the People's Assembly took place in three stages between November 9 and December 7. The first round in the greater Cairo area occurred peacefully, but there were multiple confirmed reports of vote buying and charges of vote rigging. Presidential runner-up Ayman Nour lost his parliamentary seat in a race against a recently-retired state security officer. Nour's camp alleged government fraud. Independent candidates allied with the banned but tolerated Muslim Brotherhood won 35 seats out of the 160 in play in the first round.

The second round of the parliamentary elections, which included Alexandria, witnessed violence by government supporters against opposition voters, sporadic police cordons intended to limit access to polling stations, and additional wins for independent Islamist candidates linked with the MB.

The third round of the parliamentary elections was marred by widespread police cordons at polling stations aimed at limiting opposition voters, as well as multiple clashes between police and opposition voters which left at least eight persons dead. The NDP retained its overriding majority in the new parliament but now faces 88 independent deputies allied with the outlawed Muslim Brotherhood and a handful of other opposition deputies.

Following the parliamentary elections, the NDP preserved its dominance of the 454-seat People's Assembly, the 264-seat Shura Council, local governments, the mass media, labor, and the large public sector, and controlled the licensing of new political parties, newspapers, and private organizations.

The People's Assembly debated government proposals, and members exercised their authority to call cabinet ministers to explain policy. The executive initiated almost all legislation. The Assembly exercised limited influence in the areas of security and foreign policy and retained little oversight of the Ministry of Interior's use of Emergency Law powers. Many executive branch initiatives and policies were carried out by regulation through ministerial decree without legislative oversight. Individual voting records were not published, and citizens had no independent method of checking a member's voting record.

The Shura Council, the upper house of parliament, has 264 seats. The constitution provides that two-thirds of the members are elected and one-third are appointed by the president.

In addition, during the year, a variety of other aspirant political parties sought legal recognition from the courts or the PPC.

On April 28, the Shura Council's Political Parties Committee rejected the request submitted by Tareq Imam Muhamad Mustafa to establish the "Socialist Democratic Freedom Party."

The Political Parties Law prohibits political parties based on religion, and the MB remained an illegal organization; however, MB members openly and publicly expressed their views. They remained subject to government pressure (see section 1.d.). A total of 88 candidates affiliated with the MB were elected to the People's Assembly as independents. There were 6 women elected to the 454-seat People's Assembly, as well as 5 women appointed. Two women served among the 32 ministers in the cabinet.

There were 6 Christians (5 appointed; 1 elected) in the 454-seat People's Assembly; 6 Christians (all appointed) in the 264-seat Shura Council; and 2 Christians in the 32-member Cabinet. Christians, who represent approximately 10 percent of the population, currently hold less than 2 percent of the seats in the People's Assembly and Shura Council.

*Government Corruption and Transparency.*—Despite a paucity of evidence, there was a widespread public perception of corruption in the executive and legislative branches. Corruption was a regular theme for opposition media speculation, and it emerged as a central campaign theme for the opposition during both the presidential and parliamentary elections. Kamal El-Shazly, who served as minister for parliamentary affairs until his removal in the December cabinet reshuffle, and Ibrahim Soliman, who served as minister of housing until his removal in the same reshuffle, have been dogged over the years by persistent but unproven allegations of corruption. Despite their ouster from the cabinet, Shazly and Soliman both remained in parliament, as a consequence of their successful campaigns for re-election during the parliamentary election.

In addition, on April 2, a criminal court convicted 45-year-old Judge Hisham Hasaballah of bribery and sentenced him to life in prison, removed him permanently from the bench, and ordered him to pay a \$17,540 (LE 100,000) fine for accepting

\$209,000 (LE 1.19 million) of bribes from 12 defendants in exchange for lenient sentences or acquittals. Six of the defendants who bribed the judge were sentenced in absentia to 15 years' stiffened imprisonment; the other six were acquitted after confessing.

In December, two key figures in the country's media sector were arrested and indicted on corruption charges. Abdel Rahman Hafez, director of the state-owned Media Production City, and Ehab Talaat, a private sector advertising executive, were indicted on December 8 by the public prosecutor, after a case against them was brought by the Administrative Control Authority, the government agency mandated to combat public corruption. According to the indictment, Hafez and Talaat were involved in a scheme granting the latter's ad agency advertising time on the state-owned Nile Satellite Channel for a tenth of its actual value. At year's end, the judicial process was underway.

In August, the press reported a wide-ranging scandal allegedly involving senior members of the Ministry of Education who colluded with teachers to assist dozens of secondary school students in Giza to cheat on their general secondary school exams. According to press reports, several of the cheating students came from prominent families who were NDP members. Minister of Education Ahmed Gamaleddin Moussa referred the case to the administrative and public prosecutors, who had taken no action by year's end. Minister Moussa lost his cabinet portfolio in the December cabinet reshuffle.

The local press routinely reported on confirmed cases of low-level corruption, including tampering with official documents, embezzlement, and acceptances of bribes by officials in various government departments.

There are no legal provisions for public access to government information.

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

Government restrictions on NGO activities, including limits on organizations' ability to accept funding, continued to limit reporting on human rights abuses. Government officials were selectively cooperative and responsive to NGO views (see section 2.d.).

The law governing the regulation and operation of all NGOs grants the minister of social affairs the authority to dissolve an NGO by decree, rather than requiring a court order. There were no reports that the minister resorted to this option during the year.

The leading independent human rights NGOs included the Egyptian Organization for Human Rights, the Human Rights Association for the Assistance of Prisoners, the Cairo Institute for Human Rights Studies, the Egyptian Initiative for Personal Rights, the Ibn Khaldun Center, the Arab Center for the Independence of the Judiciary and the Legal Profession, and the Egyptian Center for Women's Rights. The Arab Organization for Human Rights generally took a softer line towards the government. During the year, a number of NGO representatives, working on behalf of domestic elections monitoring coalitions, interacted with the representatives from the government, the presidential and parliamentary elections commissions, and the National Council for Human Rights. The government did not demonstrate a consistent approach towards cooperating with human rights NGOs.

The National Council for Human Rights (NCHR), established by parliament in 2003, issued its first annual report in April, covering calendar year 2004 and the first two months of 2005. The report described a wide range of human rights abuses committed by the government during this period, including deaths in custody, extremely poor treatment of prisoners, widespread use of torture, and continued mass arrests and detentions. It critiqued the use of military and emergency courts and offered a balanced assessment of political reform and freedom of association, citing the public concern resulting from the "arbitrary and sudden measures" taken against Ayman Nour. The report criticized the government for failing to handle the specific case of Wafaa' Constantine (see section 2.c.) in a transparent fashion, although it was silent on the broader issue of religious minorities' rights.

The report concluded by offering a series of direct, strongly worded recommendations to the government for improving its human rights record, namely to: lift the emergency law; eliminate preventive detentions and require the Ministry of Interior to disclose the locations of all detainees; improve prison conditions and prisoner rights; revise the Penal Code to conform with the Convention Against Torture and ratify Articles 21 and 22 of the Convention; overhaul the justice system to improve efficiency and transparency; develop a national plan to expand women's political and social rights; reduce discrimination in the workforce; and halt violence against women. The Council referred to specific human rights abuses as categorical viola-



tions of both the constitution and international norms, while citing concomitant public concern over such incidents.

The government's September 1 response stated that it was fully cooperating and would investigate all complaints submitted by the NCHR. The response reviewed previous government steps to protect and expand human rights (including establishment of the NCHR; the abolition of state security courts; the abolition of hard labor imprisonment; the abolition of military decrees; the establishment of family courts; the government's focus on women's issues, including naming a female judge; the passage of the NGO law; and a general raising of awareness about human rights). The government response also criticized some aspects of the NCHR report for inaccuracy and reiterated the government's commitment to protecting and expanding human rights. However, by year's end, the government had apparently not taken any concrete action in response to the report's recommendations.

The NCHR also issued reports on both the presidential and parliamentary elections. The report on the presidential elections was generally favorable, though it noted some procedural flaws. The NCHR report on the parliamentary elections was more critical, noting many of the violations that characterized the parliamentary polls, and recommending that the government take steps to investigate and remedy the flaws.

Several leading human rights groups and civil society organizations continued to press legal challenges against government decisions to allow them to register under the NGO law. Although these organizations were generally allowed to conduct operations, albeit on a limited basis, they did so in technical violation of the NGO law with the omnipresent specter of government interference and/or closure looming over them (see section 2.b.).

During the year, a court overruled the government's previous decision to prevent the Word Center for Human Rights, an organization which often handles Coptic rights issues, from registering as an NGO. In 2003, the Ministry of Social Affairs had rejected the Center's application for NGO status, citing "security objections" based on Article 11 of the NGO Law. The ministry also contended that the Center was a group based on religion and therefore not eligible for NGO status under the NGO Law. However, on February 13 the Administrative Court overruled the ministry's decision and allowed the Word Center to register as an NGO, based on the constitutional right to peaceable and unarmed private assembly. The ministry's appeal against the court ruling in favor of the Word Center was pending at year's end.

EOHR, HRAAP, and other groups obtained limited cooperation of government officials in visiting some prisons in their capacity as legal counsel, but not as human rights observers.

A number of civil society organizations received direct funding from foreign governmental and non-governmental donors to support their work in a variety of areas, including human rights advocacy and election monitoring. During the year, the government permitted various human rights organizations—including the Cairo Institute for Human Rights Studies, HRAAP, EOHR, the Ibn Khaldoun Center, and the Arab Center for Independence of the Judiciary—to hold and participate in international conferences.

International human rights NGOs have generally been allowed to establish formal operations. Organizations such as Human Rights Watch made periodic visits as part of their regional research program and were able to work with domestic human rights groups. The U.S.-based National Democratic Institute and International Republican Institute, which worked to provide technical assistance in support of expanded political and civil rights, established operations during the year, although by year's end the government had not yet approved their formal registration papers.

The government at times cooperated with international organizations; however, on April 4, UN Special Rapporteur on Torture Manfred Nowak reporting to the UN Commission on Human Rights, said that the government had "not yet responded to earlier requests by my predecessor (Theo van Boven) to visit" Egypt (see section 1.c.).

The People's Assembly has a "Human Rights Committee." Human rights activists did not judge it to be an effective mechanism for advancing human rights issues.

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

The constitution provides for equality of the sexes and equal treatment of non-Muslims; however, aspects of the law and many traditional practices discriminated against women and religious minorities.

*Women.*—The law does not prohibit spousal abuse; however, provisions of law relating to assault in general are applied. Domestic violence against women was a significant problem and was reflected in press accounts of specific incidents. According to a 2003 survey by the Center for Egyptian Women's Legal Affairs, an estimated

67 percent of women in urban areas and 30 percent in rural areas had been involved in some form of domestic violence at least once between 2002 and 2003. Among those who had been beaten, less than half had ever sought help. Due to the value attached to privacy in the country's traditional society, abuse within the family rarely was discussed publicly. Spousal abuse is grounds for a divorce; however, the law requires the plaintiff to produce several eyewitnesses, a difficult condition to meet. Several NGOs offered counseling, legal aid, and other services to women who were victims of domestic violence.

Activists believed that in general the police and the judiciary considered the "integrity of the family" more important than the wellbeing of the woman. The Ministry of Insurance and Social Affairs operated more than 150 family counseling bureaus nationwide, which provided legal and medical services.

The National Council for Women proposed and advocated policies that promoted women's empowerment and also designed development programs that benefit women. The Office of the National Ombudsman for Women provided assistance to women facing discrimination in employment and housing, domestic violence, sexual assault, and child custody disputes.

The law prohibits non-spousal rape and punishment ranges from three years to life imprisonment; however, spousal rape is not illegal. Although reliable statistics regarding rape were not available, activists believed that it was not uncommon, despite strong social disapproval. A rapist is convicted of abducting his victim is subject to execution.

On May 8, after hearing confessions from two defendants that they had raped and beat to death 23-year old Hoda Al-Zaher, Judge Abdo Attia handed down sentences of only three years for one defendant and three months for another, justifying these light sentences under Article 17 of the criminal penalties code. On November 6, the public prosecutor appealed the court's decision. At year's end, the case was under appeal.

The law does not specifically address "honor" crimes (violent assaults by a male against a female, usually a family member, with intent to kill because of perceived lack of chastity). In practice, the courts sentenced perpetrators of such crimes to lesser punishments than those convicted in other cases of murder. There were no reliable statistics regarding the extent of honor killings; however, it was believed that they were not common.

Female genital mutilation (FGM) remained a serious, widespread problem, despite the government's attempts to eliminate the practice and NGO efforts to combat it. Traditional and family pressures remained strong. A study conducted in 2000 estimated 97 percent of women who have ever been married had undergone FGM. However, during the year a leading NGO reported that the number had fallen to 94 percent of women age 18–49. The same study estimated that 60 percent of girls age 10–13 were at risk for FGM. The Ministry of Health estimated that 50 percent of girls age 10 to 18 were subjected to FGM. The government supported efforts to educate the public about FGM; however, illiteracy impeded some women from distinguishing between the deep-rooted tradition of FGM and religious practices. Moreover, many citizens believed that FGM was an important part of maintaining female chastity, and the practice was supported by some Muslim religious authorities and Islamist political activists. FGM was equally prevalent among Muslims and Christians. Religious leaders joined the government in publicly refuting the notion that FGM had any sort of religious sanction.

Prostitution and sex tourism are illegal but continued to occur, particularly in Cairo and Alexandria.

Sexual harassment is not prohibited specifically by law. There were no statistics available regarding its prevalence. During the May 25 national referendum, several women, including demonstrators and journalists, were reportedly assaulted and sexually humiliated by pro-government thugs, including perhaps undercover security force personnel. The public prosecutor concluded a case could not be pursued because it was impossible to determine who assaulted demonstrators (see section 2.b.).

The law provides for equality of the sexes; however, aspects of the law and many traditional practices discriminated against women. By law, unmarried women under the age of 21 must have permission from their fathers to obtain passports and to travel. Married women do not require such permission, but police did not apply the law consistently. A woman's testimony is equal to that of a man in court.

While no law prohibits a woman from serving as a judge, there was only one female judge, Counselor Tahany al-Gabbani, appointed to the Supreme Constitutional Court in 2003. In the cases of two female attorneys, Fatma Lashin and Amany Talaat, who had challenged the government's refusal to appoint them as public prosecutors, the administrative court ruled that it had no jurisdiction and referred the

case to the Supreme Judicial Council for determination. The council had not issued a ruling by year's end.

Laws affecting marriage and personal status generally corresponded to an individual's religion. *Khul'* divorce allows a Muslim woman to obtain a divorce without her husband's consent, provided that she is willing to forego all of her financial rights, including alimony, dowry, and other benefits. However, in practice, some judges have not applied the law accurately or fairly, causing lengthy bureaucratic delays for the thousands of women who have filed for *khul'* divorce. Many women have also complained that after being granted *khul'* divorce, the required child alimony was not paid.

The Coptic Orthodox Church permits divorce only in specific circumstances, such as adultery or conversion of one spouse to another religion.

Muslim female heirs receive half the amount of a male heir's inheritance, while Christian widows of Muslims have no inheritance rights. A sole female heir receives half her parents' estate; the balance goes to designated male relatives. A sole male heir inherits all of his parents' property. Male Muslim heirs face strong social pressure to provide for all family members who require assistance; however, in practice this assistance was not always provided. Labor laws provide for equal rates of pay for equal work for men and women in the public sector. According to government figures from 2003, women constituted 17 percent of private business owners and occupied 25 percent of the managerial positions in the four major national banks. Educated women had employment opportunities, but social pressure against women pursuing a career was strong. Women's rights advocates claimed that Islamist influence inhibited further gains. Women's rights advocates also pointed to other discriminatory traditional or cultural attitudes and practices, such as FGM and the traditional male relative's role in enforcing chastity.

A number of active women's rights groups worked to reform family law, educate women on their legal rights, promote literacy, and combat FGM.

*Children.*—The government remained committed to the protection of children's welfare; in practice, the government made some progress in eliminating FGM and in affording rights to children with foreign fathers. However, the government made little progress in addressing the plight of street children, which remained a significant problem. The government provided public education, which is compulsory for the first 9 academic years (typically until the age of 15). The government treated boys and girls equally at all levels of education. The minister of education asserted that 98 percent of citizen children were enrolled in compulsory education through 9th grade.

Approximately 30 percent of citizen students pursued studies at the post-secondary level.

Subject to budget restraints, the government provided medical care for all children.

The Child Law provides for privileges, protection, and care for children in general. Six of the law's 144 articles set rules protective of working children (see section 6.d.).

FGM remained a serious problem, albeit on the decrease, and was widely performed (see section 5, Women).

Child labor continued to be a significant problem, although the government took steps during the year to increase awareness of child labor-related issues and enforcement (see section 6.d.).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, other portions of the criminal code may be used to prosecute traffickers. There were anecdotal and press reports of trafficking of persons from sub-Saharan Africa and Eastern Europe through the country to Europe and Israel. It was difficult to determine how many of the aliens smuggled through the country were actually being trafficked and how many were voluntary economic migrants. The government aggressively patrolled its borders to prevent alien smuggling, but geography and finances limited the efforts. Government officials participated in international conferences on combating trafficking in persons.

*Persons with Disabilities.*—There are no laws prohibiting discrimination against persons with physical or mental disabilities in education, access to health care, or the provision of other state services. Law 39 of 1975 ("The Social Integration Law"), amended by law 49 of 1981 and by the Unified Labor Law of 2002 (articles 12–14), provides that all businesses must designate 5 percent of their jobs for persons with disabilities who are exempt from normal literacy requirements. Statistics regarding the practical implementation of this policy were unavailable. Similarly, there were no reliable statistics regarding the total number of citizens with disabilities, but

NGOs estimated that at least 8 percent of the population has some sort of disability, and that 1–2 percent of the population is severely disabled.

There is no legislation mandating access of persons with disabilities to public accommodations and transportation; however, persons with disabilities rode government-owned mass transit buses free of charge, were expeditiously approved for installation of new telephone landlines, and received reductions on customs duties for specially equipped private vehicles to accommodate disabled drivers.

In early June, according to press reports, the family of a 43-year-old woman with Down Syndrome filed a report accusing officials at a mental institution of torturing her. During a routine visit, the woman's family had found her in serious condition and had to call the police to have her transferred to a hospital.

The Higher Council for Social Integration, which was established by the 1975 law to provide leadership on the issue of persons with disabilities, has met twice during the past three decades. A leading NGO focused on the rights of persons with disabilities has sought to increase the government's and society's activities in support of persons with disabilities. The government, led by the Ministry of Social Affairs, made efforts to address the rights of persons with disabilities. It worked closely with UN agencies and other international aid donors to design job-training programs for persons with disabilities. Beginning in 2004, and with international donor support, the government, working with concerned NGOs, also sought to increase the public awareness of the capabilities of persons with disabilities in television programming, the print media, and educational material in public schools. However, there remains widespread societal discrimination against persons with disabilities, resulting in a lack of acceptance into mainstream society.

*Other Societal Abuses and Discrimination.*—Individuals suspected of homosexual activity and arrested on “debauchery” charges reported in 2004 and earlier of being subjected to humiliation and abuse while in custody. There were no reports during the year of this practice.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—There are no legal obstacles to establishing private sector unions, although such unions were uncommon. Workers may join trade unions, but were not required to do so. A union local or workers' committee may be formed if 50 employees express a desire to organize. Most union members, about one-quarter of the labor force, were employed by state-owned enterprises.

Unionization has decreased in the past several years as a result of early retirement plans in public sector enterprises, which have aimed at rightsizing workforces. Privatization of public sector enterprises has also led to some job losses, although unions have continued to operate in privatized companies.

There were 23 trade unions; all were required to belong to the Egyptian Trade Union Federation (ETUF), the sole legally recognized labor federation. The ETUF controlled the nomination and election procedures for trade union officers and permitted public authorities to intervene in union financial activities.

ETUF officials had close relations with the ruling NDP, and some were members of the People's Assembly or the Shura Council. They spoke on behalf of worker concerns, and public confrontations between the ETUF and the government were rare. ETUF president Sayed Rashad served as an NDP member of parliament until his unsuccessful bid for re-election in November. Rashad also served as head of the NDP's labor committee. During the presidential campaign, Sayed Rashad had announced that ETUF's four million members supported President Mubarak's re-election bid.

Some unions within the ETUF were affiliated with international trade union organizations. Others were in the process of becoming affiliated. The law does not permit anti-union discrimination. There were no reports of attempted discrimination, nor were there reports of attempts to enforce this protection.

*b. The Right to Organize and Bargain Collectively.*—The 2003 Labor Law establishes a labor consultative council, including representatives from the government, employers, and workers associations. The council was intended to address tripartite issues and problems and review labor-related domestic and international legislation; however, the council did not meet during the year. The law provides for collective bargaining, allowing for tripartite negotiations to improve labor terms and conditions and resolve disputes between workers and employers. Collective negotiation may be set in motion by any of the concerned parties without the consent of other parties involved with the assistance of the concerned administrative authority.

The Labor Law also established special pentagonal committees composed of two judges and representatives from the Ministry of Manpower and Migration (MOMM), the ETUF, and employers. The Labor Law provides these committees with judicial powers to adjudicate labor disputes arising from the law's application. Decisions by

these committees, which are intended to serve in place of the courts of first resort, may be appealed through the regular appeals process. During the year, the pentagonal committees received 250,000 complaints in labor disputes and issued verdicts in ten percent of the cases. Observers noted that the pentagonal committees often failed to establish quorums, thus limiting their responsiveness.

The MOMM has a unit for collective negotiations and for monitoring the implementation of collective agreements. The government sets wages, benefits, and job classifications for public sector and government employees, and the private sector sets compensations for its employees in accordance with the government's laws regarding minimum wages.

The Labor Law permits strikes, but only after an extended negotiation process. There were no formal, recognized strikes during the year. Wildcat strikes are prohibited. Peaceful strikes were allowed, provided they were announced in advance and organized by the trade union to defend vocational, economic, and social interests. To call a strike, the trade union must notify the employer and concerned administrative authority at least 10 days in advance of the strike date, giving the reason for the strike and the date it would commence. Prior to this formal notification, the strike action must be approved by a two-thirds majority of the ETUF board of directors. This advance notification requirement effectively eliminated wildcat strikes. Strikes are prohibited by law during the validity of collective bargaining agreements and during the mediation and arbitration process. Strikes are also prohibited in strategic or vital entities in which the interruption of work could result in a disturbance of national security or basic services. The Labor Law also regulates litigation related to collective bargaining and allows collective bargaining in what are identified as strategic and vital establishments. As a result of the stringent rules governing strikes, the Land Center for Human Rights, a pro-labor group, reported that there were dozens of informal job actions during the year.

Firms, other than large companies in the private sector, generally did not adhere to government-mandated standards. Although they were required to observe some government practices, such as the minimum wage, social security insurance, and official holidays, firms often did not adhere to government practice in non-binding matters, including award of the annual Labor Day bonus.

Labor law and practice were the same in the six existing export-processing zones (EPZs) as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor. The 2003 Labor Law and the Child Law do not specifically prohibit forced and compulsory labor by children. Such practices, including by children, were reportedly rare.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child Law number 12 of 1996 and its executive regulations protect children from exploitation in the workplace. While MOMM, working with the National Council for Childhood and Motherhood (NCCM) and the interior ministry, generally enforced these regulations in state-owned enterprises, enforcement in the private sector, especially in the informal sector, was lax. Employers continued to abuse, overwork, and generally endanger many working children.

The law limits the type and conditions of work that children under the age of 18 may perform legally. In nonagricultural work, the minimum age for employment is 14 or the age of completing basic education (15), whichever is higher. Provincial governors, with the approval of the minister of education, may authorize seasonal work for children between the ages of 12 and 14, provided that duties are not hazardous and do not interfere with schooling.

Pre-employment training for children under the age of 12 is prohibited. Children are prohibited from working for more than six hours per day, and one or more breaks totaling at least one hour must be included. Several other restrictions apply to children: they may not work overtime, during their weekly day(s) off, between 7 p.m. and 7 a.m., or on official holidays. Children are also prohibited from working for more than four hours continuously.

During the summer months, children under the age of 14 were periodically seen working outdoors in and near construction areas of Al-Rehab City, outside Cairo.

Statistical information regarding the number of working children was difficult to obtain and often outdated. NGOs estimated that up to two million children worked. Government studies indicated that the concentration of working children was higher in rural than in urban areas. Approximately 78 percent of working children were in the agricultural sector. However, children also worked in light industry and on construction sites.

Previous changes in the Child Labor Law have not significantly improved conditions due to lax enforcement by the government. Enforcement remained spotty, and

in cases where offenders have been prosecuted, the fines imposed were often small (e.g., 20 LE, or \$3.25) and thus had questionable deterrent effect. Regulations proposed in 2003 under the revised labor law, however, sharply increased the minimum fines in child labor cases to LE 500 (\$81). The increased penalties did not appear to have any impact during the year.

The government made progress toward eliminating the worst forms of child labor, pursuant to the UN Convention on the Rights of the Child (CRC); however, many challenges remain. The Ministry of Justice's department for legal protection of the Child worked with the NCCM to finalize comprehensive changes to the child labor law during the year. Work continued at year's end. The NCCM also worked with the MOMM, ETUF, ILO, UNICEF, and various government ministries to formulate and implement a national strategy to combat child labor and eliminate the worst forms of child labor; trained police officers on children's rights and working with juveniles coordinated with the Ministry of Education to incorporate study of the CRC into curricula; and set up social and economic projects in several governorates to remove working children into non-hazardous activities. The MOMM also increased child labor inspections in governorates with high dropout rates. The government's campaign to increase public awareness was highlighted by workshops and conferences throughout the country, including the June UN-led Regional Consultation on the Violence Against Children in Cairo, which consolidated research and relevant information about the forms, causes and impact of violence affecting children and young persons (up to 18 years). Many of these efforts were characterized by high-level government involvement.

*e. Acceptable Conditions of Work.*—During the year, the minimum wage for government and public sector employees was determined by the National Council of Wages and differed among sectors. The law stipulates that 48 hours is the maximum number of hours that may be worked in 1 week. Overtime for hours worked beyond 36 per week is payable at the rate of 25 percent extra for daylight hours and 50 percent extra for nighttime hours. The nationwide minimum wage generally was enforced effectively for larger private companies; however, smaller firms did not always pay the minimum wage. The minimum wage frequently did not provide a decent standard of living for a worker and family; however, base pay commonly was supplemented by a complex system of fringe benefits and bonuses that may double or triple a worker's take-home pay and provide a decent standard of living.

The Ministry of Labor sets worker health and safety standards, which also apply in the EPZs; however, enforcement and inspections were uneven. A council for occupational health and safety was established by the Labor Law to address health and safety issues nationwide. During the year, ETUF called for development of a national health insurance program prior to proposed changes in the health insurance law.

The new labor law prohibits employers from maintaining hazardous working conditions, and workers have the right to remove themselves from hazardous conditions without risking loss of employment.

There were occasional reports of employer abuse of undocumented workers, especially domestic workers. A few employers were prosecuted during the year for abuse of domestic workers, but many claims of abuse were unsubstantiated because undocumented workers were reluctant to make their identities public.

## IRAN

The Islamic Republic of Iran,<sup>1</sup> with a population of approximately 68 million, is a constitutional, theocratic republic in which Shi'a Muslim clergy dominate the key power structures. Article four of the constitution states that "All laws and regulations . . . shall be based on Islamic principles." Government legitimacy is based on the twin pillars of popular sovereignty (Article Six) and the rule of the Supreme Jurisconsultate (Article Five).

The supreme leader of the Islamic Revolution, Ayatollah Ali Khamenei, dominated a tricameral division of power among legislative, executive, and judicial branches. He is not directly elected but chosen by an elected body of religious leaders. Khamenei directly controlled the armed forces and exercised indirect control over the internal security forces, the judiciary, and other key institutions. Reformist President Mohammad Khatami headed the executive branch until August when con-

<sup>1</sup>The United States does not have an embassy in Iran. This report draws heavily on non-U.S. Government sources.

servative Mahmoud Ahmadinejad took office. Ahmadinejad won the presidency in June in an election widely viewed as neither free nor fair.

An unelected 12-member council of guardians reviewed all legislation passed by the majles for adherence to Islamic and constitutional principles and also screened presidential and majles candidates for eligibility. Prior to the June presidential elections, the guardian council excluded all but 8 candidates of the 1,014 who registered.

The government's poor human rights record worsened, and it continued to commit numerous, serious abuses. On December 16, the UN General Assembly passed a resolution expressing detailed, serious concern over the country's human rights problems.

In preparation for the June presidential elections, there was intense political struggle between a broad popular movement favoring greater liberalization of human rights and the economy, and hard-line elements within government and society that viewed such reforms as a threat to the Islamic Republic. Reformists and hard-liners within the government engaged in divisive internal debates.

The following human rights problems were reported:

- significant restriction of the right of citizens to change their government
- summary executions, including of minors
- disappearances
- torture and severe punishments such as amputations and flogging
- violence by vigilante groups with ties to the government
- poor prison conditions
- arbitrary arrest and detention, including prolonged solitary confinement
- lack of judicial independence
- lack of fair public trials, including lack of due process and access to counsel
- political prisoners and detainees
- excessive government violence in Kurdish areas
- substantial increase in violence from unknown groups in an Arab region of the country
- severe restrictions on civil liberties—speech, press, assembly, association, movement, and privacy
- severe restrictions on freedom of religion
- official corruption
- lack of government transparency
- violence and legal and societal discrimination against women, ethnic and religious minorities, and homosexuals
- trafficking in persons
- incitement to anti-Semitism
- severe restriction of workers' rights, including freedom of association and the right to organize and bargain collectively
- child labor

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports of political killings. The government was responsible for numerous killings during the year, including executions following trials that lacked due process. Exiles and human rights monitors alleged that many of those supposedly executed for criminal offenses, such as narcotics trafficking, actually were political dissidents.

The law criminalized dissent and applied the death penalty to offenses such as apostasy, “attempts against the security of the State, outrage against high-ranking officials, and insults against the memory of Imam Khomeini and against the Supreme Leader of the Islamic Republic.”

On April 15, there were violent protests in the ethnically Arab province of Khuzestan (see section 5). The protests followed publication of a letter (denounced as a forgery by the government) that allegedly discussed government policies to reduce the percentage of ethnic Arabs in the province. A government official said clashes with security services resulted in 3 or 4 deaths, but Human Rights Watch (HRW) reported at least 50 deaths.

On June 12, 4 bombs exploded in Khuzestan and 2 in Tehran with as many as 10 killed and approximately 100 injured.

In July and August, demonstrations and strikes in Kurdistan followed the killing of a Kurdish political activist by security forces. According to HRW, security forces killed at least 17 persons during this period.

On August 2, the deputy prosecutor of Tehran, Massoud Moghaddasi, the judge involved in the prosecution of free speech advocates and dissident Akbar Ganji (see section 1.e.), was shot and killed; the Armed Youth of Cherikha-ye Fada'i (the self-sacrificing guerillas) claimed responsibility. Police arrested a suspect, and the government claimed counterrevolutionary groups had hired him. The judiciary spokesman said the same group threatened to kill the Tehran prosecutor, Saeed Mortazavi. Later in August, unknown assailants shot and seriously wounded a prominent judge in Tehran involved in anticorruption cases.

In August 2004 Iranian media reported that 16-year-old Ateqeh Rajabi was hanged in public for "acts incompatible with chastity." Rajabi was not believed to be mentally competent and had no access to a lawyer. The supreme court upheld her sentence. An unnamed man arrested with her received 100 lashes and was released.

No action was taken in the 2004 cases in which security forces killed strikers (January) and suppressed post-election demonstrations (February).

In 2003 an Iranian-Canadian photographer, Zahra Kazemi, died in custody after being arrested for taking photographs at Evin prison in Tehran. After initially claiming that she died following a stroke, the government admitted that she died as a result of a blow to the head. In July 2004 a court acquitted an intelligence ministry official accused of her death. In December 2004 the Kazemi family protested the failure of the court to convict anyone and requested a criminal investigation, which led to a May 16 appeals court hearing. After the family protested the judge's decision to close the hearing to the public, the judge ended the session. When it reopened on July 25, the judge banned foreign observers, rejected the appeal, upheld the 2004 judgment that Kazemi's death had been accidental, and ruled that the court was not in a position to reopen the case. The court did not release the hearing's dossier.

On November 23, the judiciary released its verdict on the Kazemi case, confirming that the intelligence agent originally charged was not guilty and expressing that there were "shortcomings in the investigation." The judiciary stated that the case was being transferred to another court for further investigation. The judiciary spokesman said the case was not closed and further examination was needed, including reviewing potential suspects, but indicated no timeframe for the investigation. The Kazemi lawyers charged that someone from the judiciary, not the intelligence ministry, was responsible for her death. At year's end there had been no further action.

The 1998 killings of prominent political activists Darioush and Parvaneh Forouhar, writers Mohammad Mokhtari and Mohammad Pouyandeh, and the disappearance of political activist Pirouz Davani continued to cause controversy over a perceived government cover-up of involvement by senior officials.

In 2001 the Special Representative for Iran of the Commission on Human Rights (UNSR) reported claims that there were more than 80 killings or disappearances over a 10-year period as part of a wider campaign to silence dissent. Members of religious minority groups, including the Baha'is, evangelical Christians, and Sunni clerics, were killed in the years following the revolution, allegedly by government agents or directly at the hands of authorities.

On February 12, the Islamic Revolution Guards Corps (IRGC) announced that Ayatollah Khomeini's 1989 religious decree calling for the killing of author Salman Rushdie remained in effect.

*b. Disappearance.*—Little reliable information was available regarding the number of disappearances during the year.

According to Internet press reports, Massoumeh Babapour, a journalist for Tabriz newspapers and activist for Azeri rights, disappeared on October 3. She was found stabbed nine times, but still alive. According to her husband, she had received death threats calling her an atheist and claiming religious authorities passed a death sentence on her. At year's end there was no information regarding the perpetrators.

According to a report during the year, over the past 15 years there have been reports of at least 8 evangelical Christians killed in Iran, and between 15 and 23 reportedly missing or "disappeared."

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits torture. In April 2004 the judiciary announced a ban on torture, and the majles passed related legislation, approved by the guardian council in May 2004. Nevertheless, there were numerous credible reports that security forces and prison personnel tortured detainees and prisoners.



On December 16, the UN General Assembly adopted a human rights resolution on Iran that expressed, among other points, serious concern at the continuing use of torture and cruel, inhuman, or degrading treatment or punishment, such as floggings and amputations, as well as public executions. It also called on the country to uphold the moratorium on executions by stoning and legally abolish the practice.

The penal code includes provisions for the stoning, or lapidation, of women and men convicted of adultery. In 2002 the head of the judiciary announced a moratorium on stoning. There were several subsequent reports of sentences of stoning imposed by judges, including two during the year, but no proof of these sentences being carried out. A woman's rights group claimed "Fateme" was sentenced to stoning in May for adultery and murder. On October 15, domestic press reported that "Soghra" was sentenced to death by stoning for adultery, as well as given a 15-year prison sentence for complicity in murdering her husband.

In June a court sentenced a man to have his eyes surgically removed for a crime he committed 12 years earlier, when he was 16. The Integrated Regional Information Networks (IRIN) of the UN Office of Coordination of Humanitarian Affairs quoted human rights specialists as saying that while such unusual sentences were occasionally passed by Islamic courts, they were rarely implemented; rather they were used as leverage to set blood money. Nonetheless, in November domestic press reported prison authorities amputated the left foot of a convicted armed robber.

Some prison facilities, including Tehran's Evin prison, were notorious for the cruel and prolonged torture of political opponents of the government. Additionally, in recent years authorities have severely abused and tortured prisoners in a series of "unofficial" secret prisons and detention centers outside the national prison system. Common methods included prolonged solitary confinement with sensory deprivation, beatings, long confinement in contorted positions, kicking detainees with military boots, hanging detainees by the arms and legs, threats of execution if individuals refused to confess, burning with cigarettes, sleep deprivation, and severe and repeated beatings with cables or other instruments on the back and on the soles of the feet. Prisoners also reported beatings about the ears, inducing partial or complete deafness, and punching in the eyes, leading to partial or complete blindness. HRW noted that student activists were physically tortured more than critics within the system. It also noted abuse sometimes occurred in the presence of high-level judges. As reported by a radio broadcast on May 5, Judiciary Head Shahrudi complained about security forces' treatment of some detainees. He said judges must conduct interrogations and confessions without a judge present were inadmissible.

In February 2004 Amnesty International (AI) reported that it had documented evidence of "white torture," a form of sensory deprivation. Amir Abbas Fakhravar (see section 1.e.), a political prisoner, was sent to the "125" detention center, controlled by the revolutionary guards. According to AI his cell had no windows, and the walls and his clothes were white. His meals consisted of white rice on white plates. To use the toilet, he had to put a white piece of paper under the door. He was forbidden to speak, and the guards reportedly wore shoes that muffled sound. The Committee against Torture has found that sensory deprivation amounts to torture.

According to domestic press, in July Abbas Ali Alizadeh, the head of the Tehran judiciary and head of the supervisory and inspection committee to safeguard civil rights, provided Judiciary Chief Shahrudi with a detailed report, as a follow-up to Shahrudi's directive on respect for citizenship rights. This unreleased report was described in detail in the media and outlined abusive human rights practices in prisons, including blindfolding and beating suspects, detainees left in a state of uncertainty, and prolonged investigations. For example, authorities jailed a 13-year-old in the worst detention center for stealing a chicken, jailed a woman in her 80s for financial difficulties, and arrested a woman for drug charges against her husband.

Separately in July according to domestic press, the deputy national police commander for criminal investigation said police would investigate any reports of torture. He said torture was against regulations, but its existence in the criminal investigation departments was undeniable, and that forensic and scientific advances have made torture unnecessary.

In an effort to combat "un-Islamic behavior" and social corruption among the young, the government relied on a "morality" force, referred to merely as "special units" (*yegan ha-ye vizhe*), to complement the existing morality police, "Enjoining the Good and Prohibiting the Forbidden" (*Amr be Maruf va Nahi az Monkar*). The new force was to assist in enforcing the Islamic Republic's strict rules of moral behavior. Credible press reports indicated members of this force chased and beat persons in the streets for offenses such as listening to music or, in the case of women, wearing makeup or clothing regarded as insufficiently modest or accompanied by unrelated men (see section 1.f.).

There was no further action in the 2004 case of the person who died in February after receiving 80 lashes, the November death of a 14-year old Kurdish boy after receiving 85 lashes, or punitive amputations in September and October.

*Prison and Detention Center Conditions.*—Prison conditions in the country were poor. Many prisoners were held in solitary confinement or denied adequate food or medical care to force confessions. After its 2003 visit, the UN Working Group on Arbitrary Detentions reported that “for the first time since its establishment, [the working group] has been confronted with a strategy of widespread use of solitary confinement for its own sake and not for traditional disciplinary purposes.” The working group described Sector 209 of Evin prison as a “prison within a prison,” designed for the “systematic, large-scale use of absolute solitary confinement, frequently for long periods.”

The UNSR reported that much of the prisoner abuse occurred in unofficial detention centers run by unofficial intelligence services and the military. The UN Working Group on Arbitrary Detention raised this issue with the country’s Article 90 parliamentary commission during its 2003 visit, generating a commission inquiry that reportedly confirmed the existence of numerous unofficial prisons. In June 2004 HRW documented a number of unofficial prisons and detention centers such as “Prison 59” and “Amaken,” an interrogation center where persons are held without charge, questioned intensively for prolonged periods, physically abused, and tortured.

The Tehran province judiciary tasked its branches to address and compile complaints about civil rights violations and reportedly received 143 complaints, including a person jailed since 1989 without a conviction or indication of criminal record. In the unreleased report described in July in domestic press, the judiciary committee, called the supervising and inspection committee for preserving citizens’ rights, reported visiting detention centers of the police security and intelligence, criminal and intelligence departments, and army security and intelligence departments to assess condition of detainees, sanitation, visiting procedures, and procedures used to summon and arrest suspects.

In its findings, the committee noted arrests without warrants. It said the IRGC intelligence department detention center would not allow the committee to enter its facility. The report also called for an investigation of suicides by female inmates in Rajai’i Shahr prison. The committee report stated every military camp or intelligence or security department had its own detention center, which defied the judiciary head’s directive. Ministry of Intelligence and Security (MOIS) facilities operated without the required oversight of the Prisons Organization. Serious problems were found in a wide range of detention centers, jails, drug control centers, and prisons, including Section 209 at Evin prison and the Tehran revolutionary court.

The committee reported that contrary to instructions from the judiciary head on size of a detention area, the committee found that some suspects had been held for eight or nine months in much smaller spaces. The report noted torture and solitary confinement in detention centers and claimed it had taken steps to resolve the issue. The report stated that confessions obtained under duress were legally invalid. The committee also called for investigations into possible violations committed against arrested and detained girls and women.

Alizadeh claimed the problems cited in the report were resolved, at the order of the judiciary, and the culprits were presented to authorities. Government spokesman Ramezanzadeh praised the report and said the defense and information ministries were expected to turn over names of those responsible for torture to the judiciary. However, at year’s end there was no indication that anyone had been held responsible for the abuses cited in the report.

In July the secretary general of the administration of justice of Tehran said in interview that, following investigation into prison conditions and corrective actions, every prison had an average of 12 square meters, and all detention centers were now under the supervision of the organization of prisons.

Separately, the judiciary spokesman called the committee’s report a complete falsehood. Among his charges he said the report’s claim that there were unlawful detention centers administered contrary to prison regulations and in which defendants are blindfolded and beaten was untrue.

Shahrudi asked the judiciary to investigate reports of abuse of Internet writers, arrested in a crackdown in 2004 (see section 1.e.). The judiciary’s report also was not released, and although it was acknowledged that some were abused, there was no information that anyone was held accountable.

In July 2004 the UK-based International Center for Prison Studies reported that 133,658 prisoners occupied facilities constructed to hold a maximum of 65 thousand persons.

On February 9, HRW warned that the confinement of the country's political prisoners with violent criminals endangered their lives. On January 25, six prisoners in Rajai'i Shahr prison started a hunger strike to protest their confinement with dangerous criminals who assaulted and intimidated them. According to an Internet source, inmates raped and killed a 17-year-old male in a Shiraz prison on November 19. He had been convicted of a minor crime, sent to the juvenile section of the prison, but then transferred to a cell that included convicted adult murderers (see section 1.e.).

In May Judiciary Chief Shahrudi directed that convicts imprisoned for lesser offenses and gravely ill prisoners should be given leave for three months; the directive's implementation was unknown.

The government generally has granted prison access only to the International Committee of the Red Cross (ICRC); however, it permitted visits to imprisoned dissidents by UN human rights officials during 2003 (see section 4). UN Working Group on Arbitrary Detention officials visited Evin prison in Tehran—including sector 209, in which many political prisoners were believed held—as well as other prisons and police stations. The working group interviewed approximately 140 “ordinary” prisoners plus 14 out of a requested 45 inmates described as political prisoners and prisoners of conscience. It described the authorities' cooperation as “on the whole positive,” although it noted problems with government response to follow-up requests generated by the visit and disappointment over arrests after the group's departure.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, these practices remained common.

*Role of the Police and Security Apparatus.*—Several agencies share responsibility for law enforcement and maintaining order, including the ministry of intelligence and security, the law enforcement forces under the interior ministry, and the IRGC. A paramilitary volunteer force known as the basiji and various informal groups known as the Ansar-e Hizballah (Helpers of the Party of God) aligned with extreme conservative members of the leadership and acted as vigilantes. The size of the Basij is disputed, with officials citing anywhere from 11 to 20 million, and a recent Western study claiming there were 90 thousand active members and up to 300 thousand reservists. Civilian authorities did not maintain fully effective control of the security forces. The regular and paramilitary security forces both committed numerous, serious human rights abuses. According to HRW since 2000 the government's use of plainclothes security agents to intimidate political critics became more institutionalized. They were increasingly armed, violent, and well equipped, and they engaged in assault, theft, and illegal seizures and detentions.

*Arrest and Detention.*—In practice there is no legal time limit for incommunicado detention nor any judicial means to determine the legality of detention. In the period immediately following detention or arrest, many detainees were held incommunicado and denied access to lawyers and family members.

Security forces often did not inform family members of a prisoner's welfare and location. Authorities often denied visits by family members and legal counsel. Prisoners released on bail did not always know how long their property would be retained or when their trials would be held. According to the July report on prisons, approximately 1,400 persons were held in Rajai'i Shahr prison without being convicted. In addition families of executed prisoners did not always receive notification of their deaths. On occasion the government forced family members to pay to retrieve the body of their relative (see section 1.a.).

The UN General Assembly (UNGA) resolution regarding the country's human rights expressed serious concern at the use of arbitrary arrest, targeted at both individuals and their family members. Also in July 2004, police arrested Simin Mohammadi and her father Mohammad Mohammadi, sister and father respectively of jailed student activists Manuchehr and Akbar Mohammadi, reportedly for “acts against state security.” Police released Simin after posting bail following two weeks' imprisonment in solitary confinement; her father also was released on bail after having a heart attack in solitary confinement.

In 2003 the government released Ayatollah Hossein Ali Montazeri, formerly the designated successor of the late supreme leader, Ayatollah Khomeini, amid reports of health problems after five years of house arrest. In recent years the government has used house arrest to restrict the movements and ability to communicate of senior Shi'a religious leaders whose views regarding political and governance issues were at variance with the ruling orthodoxy; however, there was no information on this practice during the year.

Numerous publishers, editors, and journalists (including those working on Internet sites) were detained, jailed, tortured, and fined, or they were prohibited from publishing their writings during the year (see section 1.e. and 2.a.).

Adherents of the Baha'i Faith continued to face arbitrary arrest and detention (see section 2.c.).

In September Judiciary Head Shahrudi issued new sentencing guidelines under which minor offenders would be fined and receive punishments other than imprisonment. This change was reportedly due in part to prison overcrowding. It is not known whether this change was implemented. According to HRW most prisoners were eligible for release after serving half of their sentences.

*Amnesty.*—According to domestic press, in April the supreme leader granted amnesty or commuted the sentences of 3,631 prisoners; in May several prisoners sentenced by military courts; in September 7,780 prisoners; and in November 2,185 prisoners. These amnesties marked Muslim and national holidays.

*e. Denial of Fair Public Trial.*—The constitution provides that the judiciary is “an independent power”; however, in practice the court system was subject to government and religious influence. After the 1979 revolution, the judicial system was revised to conform to an Islamic canon based on the Koran, Sunna, and other Islamic sources. The constitution provides that the head of the judiciary shall be a cleric chosen by the supreme leader. The head of the supreme court and prosecutor general also must be clerics. Women are barred from serving as certain types of judges.

There are several court systems. The two most active are the traditional courts, which adjudicate civil and criminal offenses, and the Islamic revolutionary courts. The latter try offenses viewed as potentially threatening to the Islamic Republic, including threats to internal or external security, narcotics and economic crimes, and official corruption. A special clerical court examines alleged transgressions within the clerical establishment, and a military court investigates crimes committed in connection with military or security duties. A press court hears complaints against publishers, editors, and writers in the media. The supreme court has limited review authority.

HRW noted in a 2004 report that the judiciary was at the core of suppressing political dissent and that, in practice, it violated due process rights at every level, including the right to be promptly charged; have access to legal counsel; be tried before a competent, independent, and impartial court in a public hearing; and have right of appeal. Detainees were often not clear of their legal status. Numerous observers considered Tehran Public Prosecutor Mortazavi the most notorious persecutor of political dissidents and critics.

According to the civil code, persons under 18 years of age may be prosecuted for crimes as adults, without special procedures, and may be imprisoned with adults. The age of criminal responsibility is set at 15 years for males and 9 years for females. As a party to the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, the country is obligated not to execute persons for crimes committed when they were younger than 18.

In January government officials told the UN Committee on the Rights of the Child that for many years there had been a moratorium in place on the death penalty for minors under 18. The same day, however, a man was executed for a crime committed when he was 17, and credible reports corroborated such action. AI cited a domestic press report that at least 30 minors sentenced to death were detained in juvenile detention centers in Tehran and Rajai'i Shahr. It was widely reported in the press that 2 teenage boys were hanged in public on July 19 in Mashhad, charged with raping a 13-year-old boy. Their ages differed in press reports, but apparently at least one was a minor at the time of the offense. In this case, some international observers claimed the two were executed for homosexual behavior; however, it was not possible to verify this allegation (see section 5).

In October 2004 20 local human rights groups called on the judiciary not to sentence minors to death. Nobel Peace Prize laureate Shirin Ebadi called for a demonstration, but the authorities denied the request. During the year the UNGA adopted a resolution denouncing the country's practice of executing minors, and the UN Committee on the Rights of the Child urged the country to suspend execution of juvenile offenders.

*Trial Procedures.*—Many aspects of the prerevolutionary judicial system survived in the civil and criminal courts. For example, defendants have the right to a public trial, may choose their own lawyer, and have the right of appeal. Panels of judges adjudicate trials. There is no jury system in the civil and criminal courts. If postrevolutionary statutes did not address a situation, the government advised judges to give precedence to their own knowledge and interpretation of Islamic law.

Trials are supposed to be open to the public; however, frequently they are held in closed sessions without access to a lawyer; the right to appeal often is not honored.

UN representatives, including the UNSR, the UN Working Group on Arbitrary Detention, and independent human rights organizations noted the absence of procedural safeguards in criminal trials. The UNGA resolution on the country's human rights expressed serious concern at "the persistent failure to comply fully with international standards in the administration of justice. . . ."

Trials in the revolutionary courts were notorious for their disregard of international standards of fairness. Revolutionary court judges were chosen in part based on their ideological commitment to the system. Pretrial detention often was prolonged, and defendants lacked access to attorneys. Charges were often undefined such as "anti-revolutionary behavior," "moral corruption," and "siding with global arrogance." Defendants did not have the right to confront their accusers. Secret or summary trials of five minutes' duration occurred. Others were show trials intended to publicize a coerced confession.

The legitimacy of the special clerical court system continued to be subject to debate. The clerical courts, which investigate offenses and crimes committed by clerics and which are overseen directly by the supreme leader, are not provided by the constitution and operated outside the domain of the judiciary. In particular critics alleged the clerical courts were used to prosecute clerics for expressing controversial ideas and participating in activities outside the sphere of religion, such as journalism. The recommendations of the UN Working Group on Arbitrary Detention included a call to abolish both the special clerical courts and the revolutionary courts.

In its 2003 report, the UN Working Group on Arbitrary Detention noted failures of due process in the court system caused by the absence of a "culture of counsel" and the previous concentration of authority in the hands of a judge who prosecuted, investigated, and decided cases. The working group welcomed the 2002 reinstatement of prosecution services, after a 7-year suspension, but noted that this reform had been applied unevenly, with the judge still having major investigative responsibilities in many jurisdictions.

On January 27, authorities released Afsaneh Noroozi from prison after being pardoned for a murder that she and police and forensic experts claimed was in self-defense. Police arrested her in 1997 for killing a senior security and intelligence officer. She claimed she killed him in self-defense after he attempted to rape her. According to AI, police tortured and threatened Noroozi and her husband, eliciting false confessions. In a 2000 trial, she was given the death penalty. Her 2004 retrial was also held behind closed doors but supervised by the judiciary. The court did not change the ruling, but it announced on January 11 that the family had agreed to forgo the death penalty in exchange for blood money. Upon her release the judiciary repeated its rejection of Noroozi's self-defense claim.

In December 2004 a Tehran justice department official alleged that the government tried and sentenced fugitive al-Qa'ida members detained in the country. The government did not identify those convicted, the verdicts, or their sentences and provided no further information during the year.

*Political Prisoners.*—Then President Khatami stated in April 2004 that, "absolutely, we do have political prisoners and people who are in prison for their beliefs." No accurate estimates were available regarding the number of citizens imprisoned for their political beliefs. In 2003 the UNSR for the Promotion and Protection of the Right to Freedom of Expression and Opinion estimated the number to be in the hundreds. Although there were few details, the government has reportedly arrested, convicted, and executed persons on questionable criminal charges, including drug trafficking, when their actual "offenses" were political. The government has charged members of religious minorities with crimes such as "confronting the regime" and apostasy and conducted trials in these cases in the same manner as threats to national security. Political prisoners occasionally were given suspended sentences or released for short or extended furloughs prior to completion of their sentences, but could be ordered to prison at any time. Political activists were also controlled by having a file placed in the courts that could be opened at any time.

On September 6, the spokesman for the justice ministry, Jamal Karimi-Rad, said the judiciary was ready to present parliament with a bill to define political offenses. The guardian council earlier rejected a similar bill passed by the previous parliament. At year's end there had been no action.

In a September 4 open letter, a local prisoners' rights group, the Association in Defense of Prisoner's Rights, appealed on the basis of human rights to Judiciary Chief Ayatollah Shahrudi for progress in cases of political prisoners. On September 18, *Sharq* newspaper reported that Shahrudi ordered these cases investigated.

On September 26, Shahrudi directed leaves of absence to all imprisoned students, regardless of their crimes, and asked the government to provide a list of their

names. By October 25, no students had been released and the spokesman of the Student Committee for the Defense of Political Prisoners said problems faced by student and other prisoners were worsening. In November Justice Minister Karimi-Rad said that 18 names of proreform students arrested during previous years' protests had been provided, and the judiciary would ask the supreme leader to pardon them. At year's end it did not appear that any further action had been taken.

There were reports that some persons have been held in prison for years and charged with sympathizing with outlawed groups, such as the domestic terrorist organization, the MEK.

Akbar Ganji, a former IRGC leader turned political activist and journalist, has been imprisoned since 2000 in connection with his reports linking the government with the "serial murders" of 80 dissidents in the country and abroad. He was sentenced in 2001 to six years in prison on charges including acting against national security and spreading propaganda. In May he received a furlough for medical treatment but was returned to Evin prison in June. He went on a 70-day hunger strike to protest his detention, transferred to a hospital on July 17, and ended his strike in mid-August. On September 3, he was discharged from the hospital and returned to prison. At year's end he was held in a high security section of Evin prison, known as "Alef 2" controlled by the IRGC.

In July the head of the judiciary reportedly said Ganji could be pardoned if eligible; Tehran Judiciary Chief Alizadeh subsequently said he would not be released until the end of his sentence. The UN, European Union (EU), and numerous countries have called for Ganji's release. Ganji's wife said in an open letter in late October that she believed her husband was being beaten, had been moved to solitary confinement, and was not receiving medical care. In November HRW reported Ganji said judiciary officials tortured him to try to make him renounce his writings.

In 2004 the government said it detained several citizens accused of transferring nuclear secrets to Western states. The suspects were tried, but the verdict remained secret. On July 30, while acting as an attorney for the accused, Abdol Fattah Soltani also was accused of espionage. Soltani's lawyer, human rights specialist Mohammad Dadkhah, and HRW claimed the reason for his arrest was his work in the investigation into the death of Zahra Kazemi. Despite calls for his release from almost 200 members of the national bar association, he remained in jail at year's end; his bail was set at \$800 thousand (700 million toman).

Naser Zarafshan, an attorney who represented families of the victims of the 1998 extrajudicial killings of dissidents by intelligence ministry officials, was sentenced in 2002 to five years in prison for charges including disseminating state secrets. In 2003 the supreme court reportedly dismissed his appeal. According to the non-governmental organization (NGO) PenCanada, in September 2004 a group of prisoners in collusion with prison authorities attempted to kill Zarafshan. On June 8 and 10, prodemocracy activists and Zarafshan's family demonstrated at Evin prison, calling for his release. On July 9, his attorney, Nobel Peace Prize winner Ebadi, announced he had received a furlough for medical treatment; however, at year's end he remained in Evin prison.

Police arrested journalist Siamak Pourzand in 2001 and tried him in March 2002 behind closed doors. He was denied free access to a lawyer of his choice and was sentenced to 11 years in prison for "undermining state security through his links with monarchists and counterrevolutionaries." He was kept in solitary confinement for months and physically and psychologically tortured to force him to make a televised confession. He was reportedly urged to implicate others, refused, was released but then returned a month later to Evin prison. In March 2004 Pourzand suffered a heart attack that left him in a coma. After repeated hospitalizations and reimprisonment, Pourzand was furloughed again in 2004 but kept under house arrest, not allowed to leave the country, and could be returned to prison at any time. His wife, Mehrangiz Kar, a human rights defender residing outside the country who faces charges in connection with her participation in a 2000 conference in Berlin, was formerly a political prisoner.

In February the special court for the clergy sentenced Mojtaba Lotfi, a cleric who wrote social and political commentary on his Web site, to 3 years and 10 months in prison. He was released on August 28.

Afshin Zarei, an Internet writer arrested at the beginning of the year, was charged with insulting the supreme leader. According to press accounts by his lawyer in August, Zarei had been held in "temporary detention" for eight months. At year's end no further information was available.

On February 2, Internet writer and journalist Arash Sigarchi received a sentence of 14 years in prison for charges including espionage, aiding "hostile" governments, and insulting the country's leaders. On March 17, he was released pending appeal, after posting \$127 thousand (100 million tomans) bail. In August he was summoned

again to court and charged with insulting religious and political leaders and having a satellite dish, but was out of prison at year's end.

On February 6, according to domestic media, Hojatoleslam Hassan Yusefi-Eshkevari was released from jail. The cleric was arrested in August 2000 and sentenced to four years for saying that dress codes for women are unnecessary in Islam, one year for participating in the 2000 conference in Berlin about reform in the country, and two years for disseminating allegedly false information.

Mojtaba Saminejad, an Internet writer, was arrested on February 13 and sentenced to more than two years in prison on charges including insulting the supreme leader. He was first detained in October 2004 after reporting the arrest of other Internet writers and, according to HRW, tortured and held for 88 days in solitary confinement. On January 27, he was released on \$62,500 (50 million toman) bail. He started another Internet site but was detained again, and his bail tripled, which he could not pay. His trial in May was held behind closed doors; he was sentenced to two years in prison for insulting Khomeini and the supreme leader and charged with apostasy. He was later acquitted of apostasy but remained in Rajai'i Shahr prison.

In April two Kurdish journalists, Ejlal Qavami and Said Saedi, had a hearing in the revolutionary court on charges including undermining national security by calling for an election boycott, insulting the leadership, and portraying the system as ineffective. Between July 28 and August 2, authorities detained both again, along with two Kurdish human rights activists, Roya Tolui and Madeh Ahmadi. In October the public prosecutor in Sanandaj accused Qavami, Saedi, and Tolui of acting against national security and referred their cases to the revolutionary court. At year's end Ahmadi, Tolui, and Qavami were released on bail; Saedi's situation was unknown.

On July 25, police arrested journalist Massoud Bastani for covering a demonstration to support political prisoner Akbar Ganji. Bastani was held in Evin Prison, released August 6, then reimprisoned and sent to Arak prison, normally used for non-political prisoners. He was released for a month but returned to prison on November 5. In December the head of the Association of Iranian Journalists called for Bastani's release and said he was in poor health.

On September 26, at the same time of Judiciary Chief Shahrudi's directive to give leave to all student prisons, the revolutionary court sentenced Ali Afshari, a student leader, to six years in prison and five years deprivation of his civil rights for acting against national security. This ruling came approximately six weeks after Afshari's public call for Akbar Ganji's release. After posting \$250 thousand (200 million tomans) bail, Afshari was allowed to travel outside the country while appealing his sentence. In November student activist Akbar Atri was sentenced in his absence to five years in prison for his activities. In December student leader Abdullah Momeni was given a five-year suspended prison sentence.

Former Deputy Prime Minister and longtime political dissident Abbas Amir-Entezam has been imprisoned for 26 years and reportedly tortured. He has been on leave from prison for more than two years for medical reasons but could be forced to return to prison at any time. He was first released in 2002 but reimprisoned in 2003 for calling for a referendum on whether the country should remain under clerical rule.

Author and journalist Taqi Rahmani has spent 17 years in prison since 1981 for his writings. In 2003 Tehran's chief prosecutor, Mortazavi ordered the arrest of Rahmani and two journalist colleagues, Hoda Saber and Reza Alijani. After a long detention without charges, all three were sentenced to lengthy prison sentences. In November 2004 Alijani, Saber, and Rahmani were released on bail of approximately \$63 thousand (50 million tomans) each. At year's end they remained furloughed.

Abbas Deldar, arrested after the July 1999 student demonstrations in Tehran, has been in prison seven years. He has been periodically furloughed, but at year's end he was in Rajai'i Shahr prison.

Mehrdad Lohrasbi was also arrested in the 1999 student demonstrations. The revolutionary court condemned him to death, but his sentence was later reduced to 15 years, 10 of which were suspended. He was released in 2004 for several months but then returned to jail. He is believed to have been tortured. As of year's end, he remained in Rajai'i Shahr prison and reportedly was in poor health.

Manuchehr and Akbar Mohammadi were also arrested during the July 1999 student demonstrations and sentenced to 15 years prison after appeal. At year's end both were on furlough. Ahmad Batebi received a death sentence for "endangering national security" by participating in the 1999 student demonstrations, later reduced to 10 years by an appeals court in 2000. Batebi was temporarily released in 2004, in advance of the fourth round of talks on human rights with the EU. Subsequently, he was returned to prison and then furloughed again early in the year.

Journalist Amir Abbas Fakhravar was sentenced to eight years in prison in 2002, reportedly because of his comments on the country's political leadership in the book, *This Place Is Not a Ditch*. In February 2003 he and Ahmad Batebi wrote an open letter criticizing the government and calling for a referendum. He was summoned to court, beaten, and transferred to Evin prison, from which he received periodic furloughs, most recently on June 10 (see section 1.c.).

In 2003 police arrested freelance journalist Ensafali Hedayat at the University of Tabriz while he was covering student demonstrations; he was accused of inciting students to revolt. In January 2004 he was arrested after attending a conference abroad organized by a group advocating a democratic, secular state. In May 2004 the Tabriz appeals court confirmed an 18-month prison sentence against him. He subsequently left the country.

Amir Saran, a member of the "National Unity Front," has been in and out of prison since 2003, after being severely beaten during Students Day 2002. He was sentenced to eight years in prison, a decision upheld by the appeals court. At year's end he was in Rajai'i Shahr prison.

In 2003 Hussein Qazian and Abbas Abdi (a revolutionary leader in 1979 who later became a reformist) were sentenced to nine years—later reduced—in the National Institute for Research Studies and Opinion Polls case. In 2002 judicial authorities closed the institute, which had found in a poll commissioned by the majles that a majority of citizens supported dialogue with the United States. Among other offenses, the defendants were charged with spying for a foreign power, although government intelligence officials and then President Khatami publicly stated they were not spies. The supreme court dismissed espionage charges against Abdi in May; at year's end Qazian was released on temporary furlough.

Arjang Davoudi, a teacher, engineer, and poet, was arrested in 2003 for assisting a Canadian reporter making a documentary about Canadian-Iranian photographer Zahra Kazemi. During the year he was condemned by a revolutionary court to either 14 or 15 years in jail (varied by source), exile to a harsh climate, 5 years' suspension of his civil rights, and 70 lashes; reportedly he was beaten and kept in solitary confinement for approximately 100 days. Davoudi wrote a book from prison about interrogations, torture, and extended solitary confinement and had his manuscript privately delivered to a publishing company. According to one report, the information ministry attacked the publishing house, intercepted the manuscript, severely injured the employees, and arrested and imprisoned the publisher.

In April 2004 Peyman Piran, a student activist, was sentenced to 10 years in prison for acting against national security, contacting foreigners, disturbing public opinion, and behaving insultingly (see section 1.d.). In July 2004 security forces forcibly evicted his father, retired teacher Mostafa Piran, and his family. Mostafa Piran had reportedly tried to organize a teachers' strike to mark the anniversary of the July 1999 student demonstrations, in defiance of a ban. He was reportedly beaten and held in solitary confinement. Mostafa was released on March 19, but Peyman remained in Evin prison.

Behruz Javid-Tehrani, a member of the Democratic Party of Iran, was first arrested in 1999 and spent four years in prison. He was then rearrested in July 2004 and condemned to 7 years in prison and 54 lashes. In August it was reported that he was held in solitary confinement for three months and had told relatives that he was severely beaten.

Bina Darabzand, held at Rajai'i Shahr prison, was arrested June 2004 while demonstrating at the UN building in Tehran for the release of political prisoners. He was imprisoned, and at year's end he reportedly had medical problems. In December 2004 student leader Heshmatollah Tabarzadi, jailed since June 2003, was sentenced by the revolutionary court to 16 years in prison. He was temporarily furloughed August 24, but at year's end he was in Evin prison.

Mohsen Sazgara, IRGC founder, turned activist and publisher of now suspended reformist dailies *Jameh*, *Neshat*, and *Tous*, was sentenced on appeal in March 2004 to a year in prison. A week before his release, he was charged with "undermining national security," "insulting the supreme guide," and "antigovernment propaganda" but left the country for medical treatment. On October 2, the revolutionary court sentenced him in his absence to five years in prison. Currently living in a foreign country, Sazgara helped organize an Internet-based referendum for citizens to choose their political system.

In November 2004 local press reported that after an early October trial, a Tehran revolutionary court sentenced former foreign minister Ebrahim Yazdi, leader of the banned Freedom Movement opposition party, to an unspecified but long imprisonment, based on charges of actions against national security, insulting the supreme leader, and other charges. At year's end he was not in prison, but his court case



remained pending. He registered as a presidential candidate in the elections this year but was rejected by the guardians council.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution states that “reputation, life, property, (and) dwelling(s)” are protected from trespass except as “provided by law”; however, the government infringed on these rights. Security forces monitored the social activities of citizens, entered homes and offices, monitored telephone conversations, and opened mail without court authorization. There were widespread reports that the homes and offices of reformist journalists were entered, searched, or ransacked by government agents in an attempt to intimidate.

Vigilante violence included attacking young persons considered too “un-Islamic” in their dress or activities, invading private homes, abusing unmarried couples, and disrupting concerts. At year’s end there was no systematic campaign, although greater enforcement was reported on university campuses.

Authorities entered homes to remove television satellite dishes, although the vast majority of satellite dishes in individual homes continued to operate. Early in 2004, Western media reported that Islamist militia confiscated approximately 40 thousand satellite dishes from 4 factories secretly manufacturing satellite equipment in eastern Tehran.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of expression and the press, within limits. Article 23 of the constitution states “investigation of individuals’ beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief.” Article 24 of the constitution states “publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public. . . .” At the same time, penal code states that “anyone who undertakes any form of propaganda (undefined) against the state” can be imprisoned up to a year. The press law forbids censorship but also forbids disseminating information that may damage the Islamic Republic or offend its leaders and religious authorities. It also subjects writers to prosecution for instigating crimes against the state or insulting (not defined) Islam, which in the case of the latter, can be punished by death.

In practice the government severely restricted freedom of speech and of the press. Harassment of journalists increased after President Ahmadinejad assumed office in August. The December UNGA resolution on the human rights in the country expressed, among other abuses, serious concern at the continuing harassment, intimidation, and persecution of human rights defenders, nongovernmental organizations, clerics, journalists and Internet writers, parliamentarians, students and academics. It cited unjustified closure of newspapers and blocking of Internet sites.

The government continued to harass senior Shi’a religious and political leaders and their followers who dissented from the ruling conservative establishment. In May 2004 the special court for the clergy in Qom arrested Hojatoleslam Mojtaba Lotfi, an aide to Ayatollah Montazeri, for publishing a book that detailed the ayatollah’s five years under house arrest. The court confiscated all copies of the book (see section 1.e.).

Members of parliament who spoke out against arrests of journalists and students were summoned to court. These included Elaheh Kula’i, former member of the majles and deputy secretary general of the Islamic Iran Participation Front, who was summoned on July 24 and charged with engaging in propaganda against the system and acting against national security but was not sentenced.

In the spring of 2001, security forces arrested then majles deputy Fatima Haqiqatju for inciting public opinion, insulting the judiciary by criticizing the arrest of a female journalist, and claiming that the government tortured prisoners. She was the first sitting majles member to face prosecution for statements made when protected by parliamentary immunity. Haqiqatju was sentenced to 17 months in prison but released from custody. In June 2004 the public prosecutor summoned her to court and charged her with “propaganda against the system,” and “insulting the council of guardians, the judiciary, and the Islamic Revolutionary Guard Corps.” She was released on bail but forbidden to leave the country. In November 2004 Haqiqatju was summoned to court on a complaint by the public prosecutor about her 2003 majles resignation speech and faced similar charges. During the year there was no further juridical action, and she was allowed to travel outside the country.

There were reports of bans on election material (see section 3). Two reformist political groups, the Islamic Revolution Mojahedin Organization and the Islamic Iran Participation Front reported in June that an election-related brochure was banned on the excuse that it insulted a candidate. The interior ministry criticized state tele-

vision in April for lack of impartiality in the elections and accused it of providing publicity for some of the conservative candidates (see section 3).

After the 1997 election of President Khatami, the independent press, especially newspapers and magazines, played an increasingly important role in providing a forum for an intense debate regarding reform in the society. However, the press law prohibited the publishing of a broad and ill-defined category of subjects, including material "insulting Islam." Self-censorship, rather than formal governmental censorship, was practiced. Basic legal safeguards for freedom of expression did not exist, and since approximately 2000, the independent press has been subjected to arbitrary enforcement measures by elements of the government, notably the judiciary. During this period approximately 100 newspapers and magazines have been closed for varying periods.

Early in the year, judiciary officials made statements that suggested reduced repression for journalists. On February 28, Tehran Justice Department Chief Alizadeh said that new judiciary guidelines mandated that, in the first instance, a reporter should be cautioned, and if that were not sufficient, he or the managing editor should be summoned. On March 9, Judiciary Head Shahrudi stated that judiciary departments were asked not to close newspapers—as far as possible—and to pursue cases against individuals rather than publications. Reportedly, he said "the press can be a strong factor in preventing corruption among officials." No formal directive was issued; however, on the same day, a court lifted a ban on *Neshat*, a reformist daily closed six years earlier.

Nevertheless, freedom of the press continued to deteriorate during the year, and journalists were frequently threatened and sometimes killed because of their work. The government closed a number of reformist newspapers and magazines and sentenced many of their managers to jail and, sometimes, lashings. A handful of proreform newspapers continued to publish, most with heavy self-censorship, but new reformist newspapers no longer opened to replace those closed. As of July 1, Reporters Without Borders (RSF) reported that there were 12 journalists and cyberdissidents in prison in the country (see section 1.e.).

According to the Tehran-based Association for Advocating Freedom of Press, state pressure on journalists increased since Ahmadinejad became president in August. In October according to foreign press, a so-called Islamic Army in Iran circulated a list of 210 dissident journalists that it wanted to eliminate, calling them enemies of Islam. In an August statement printed in local press, Ansar-e Hizballah decried "hypocritical journalism" and stated that government hesitance in ripping out these "weeds" does not absolve Hizballah from doing their duty.

In November RSF accused ministry of intelligence officials of harassing journalists, claiming government officials recently had summoned at least 10 journalists for questioning and advised them not to criticize the new president or write articles on sensitive issues like the nuclear program. In November the culture minister was quoted as saying that newspapers that attacked the country's religious values would be under stricter surveillance but that, for the time being, members of the press would receive warnings and not be arrested.

HRW asserted, "By attacking a small percentage of those critical of the government, Iranian authorities have been able to silence a much larger body of journalists, activists, and students."

The press law established the press supervisory board, which is responsible for issuing press licenses and examining complaints filed against publications or individual journalists, editors, or publishers. In certain cases the board may refer complaints to the press court for further action, including closure. Its hearings were conducted in public with a jury composed of clerics, government officials, and editors of government-controlled newspapers. On September 20, domestic media reported that the Association of Young Journalists protested the composition of the press jury as too limited in representation.

In the last few years, some human rights groups asserted that the increasingly conservative press court assumed responsibility for cases before press supervisory board consideration, often resulting in harsher judgments. Efforts to amend the press laws have not succeeded, although in 2003, parliament passed a law limiting the duration of temporary press to stop the practice of extending "temporary" bans indefinitely.

The press law allows government entities to act as complainants against newspapers, and often public officials lodged criminal complaints against reformist newspapers that led to their closures. Offending writers were subjected to lawsuits and fines.

Among those prosecuted or threatened were journalists writing about ethnic issues. On April 25, police arrested Yusuf Azizi Banitaraf, a reformist Iranian-Arab journalist, during a press conference at the Center for the Defense of Human Rights

in Tehran. Formerly with the daily newspaper *Hamshari*, Banitaraf wrote extensively on ethnic minorities, defended protestors, and condemned the violence after ethnic clashes on April 15 in Khuzestan between security forces and the Arab community. On June 28, he was released on bail of \$25 thousand (20 million toman) (see sections 1.a. and 5).

On March 8, the Islamic culture and guidance ministry closed the proreform magazine *Jameh-yi No* and closed the monthly *Karnameh* on April 7 for publishing “immoral” news and poems.

On April 18, the government closed the Tehran bureau of *Al-Jazeera* after its correspondent reported on the clashes in Khuzestan and concurrently banned journalist travel to the region.

On June 20, the Tehran prosecutor’s office banned the newspapers *Eqbal*, *Aftab-e Yazd*, *Etemaad*, and *Hayat No* after they published a letter to the supreme leader from presidential candidate Mehdi Karroubi, who finished third in the first round of the presidential elections on June 17. Karroubi accused military organizations of breaking the law by supporting Ahmadinejad. All newspapers except *Eqbal* were allowed to resume publication on June 21; the editor of *Eqbal* was told the newspaper faced other complaints (see section 3).

In August authorities sentenced Mohammad Sedigh Kabovand, editor of the weekly newspaper *Payam-i Mardom-i Kurdistan*, to 18 months in prison. According to RSF, Kabovand’s lawyer, Abdolfattah Soltani, was not present, as Soltani was also in prison (see section 1.e.).

On October 16, the publishers of three magazines were tried in open court, with a jury selected by the judiciary, culture ministry, and Tehran city council. One was accused of publishing photographs of attractive celebrities to attract readers, thereby undermining Islamic values. Another was charged with spreading lies about the risk of AIDS in a local prison. At year’s end there was no further information.

The government increased control over the Internet as more citizens accessed it for news and political debate. HRW cited an online February 2004 “census” ranking Farsi the third-most-popular language for Internet Web sites (many of these were written from outside the country). An 2004 poll found many citizens trusted the Internet more than other news media. During the year approximately 6.2 million citizens used the Internet, and there were 683 Internet Service Providers.

In 2003 a government spokesman acknowledged state attempts to block access to “immoral” Internet sites. The judiciary also announced the creation of a special unit to handle Internet-related issues. According to press reporting, the judiciary highlighted over 20 subject areas to be blocked, including: insulting Islam; insulting the supreme leader or making false accusations about officials; undermining national unity and solidarity; and propagating prostitution and drugs.

Beginning in 2004 the government launched a major crackdown on sites based in the country, including “weblogs,” reportedly blocking hundreds of Internet sites. According to HRW, since September 2004 Tehran’s Chief Prosecutor, Saeed Mortazavi, reportedly ordered more than 20 Internet journalists and civil society activists arrested and held in a secret detention center in Tehran.

In December 2004 in a public letter to President Mohammed Khatami, Rajabali Mazrui, the father of one of those detained as well as president of the Association of Iranian Journalists and a former majles member, implicated the judiciary in the torture and secret detention of these individuals. His son, Hanif Mazrui, a computer technician for the banned newspaper *Vaghayeh Etefaghieh*, was arrested in September 2004. He was freed on November 11 after paying bail of approximately \$19 thousand (15 million tomans).

In December 2004 four “weblog” detainees were presented at a televised “press conference” arranged by Judge Mortazavi and denied mistreatment. However, widespread and credible reports indicated that while in secret detention, threats, torture, and physical abuse were employed to obtain false confessions and letters of repentance (see section 1.e.). After release some detainees testified to a presidential commission. Commission member and former presidential advisor Mohammad Ali Abtahi later wrote in his Internet site that they claimed they were beaten, held in solitary confinement, denied access to lawyers, and forced to make false confessions. On January 2, Abtahi reported that the government blocked access to his Internet site.

On January 11, Judiciary Head Shahrudi and other judiciary officials met with several Internet writers about their claims of mistreatment. On January 16, domestic media reported that Shahrudi instructed the public prosecutor’s office to transfer the case to a special committee from the judiciary. The report on the treatment of the Internet writers was never publicly released (see section 1.c.). By year’s end most were released on bail. After their release, RSF reported that authorities sum-

moned the bloggers for questioning several times a week, and they received threats from government officials.

On October 18, RSF accused the government of increasing control, surveillance, and censorship of the Internet. A study published by HRW listed Internet sites in the country blocked in mid-October. These sites included women's rights Web sites, several foreign based Farsi-language news sites, some popular Internet writer sites, the Freedom Movement Party Web site, a Web site promoting the views of Ayatollah Montazeri, some Kurdish Web sites, Web sites dedicated to political prisoners, and a Baha'i Web site. In October government authorities blocked access to the Baztab news Web site. The Web site manager said they received a judicial order saying the temporary ban was based on a complaint related to the nuclear issue. During November and December, three other Internet sites dealing with news and political issues were blocked. On December 13, 13 majles deputies protested Internet censorship in a letter to President Ahmadinejad and urged him to end the ban on these three sites.

In October 2004 Fereshteh Ghazi, a journalist addressing women's issues for the daily newspaper *Etemad*, was arrested on a variety of charges. According to press accounts, at least part of the time she was held in an undisclosed location and beaten for refusing to confess. Upon release in December 2004, she was immediately hospitalized.

The government, in the form of the sound and vision organization, directly controlled and maintained a monopoly over all television and radio broadcasting facilities; programming reflected the government's political and socioreligious ideology. Because newspapers and other print media had a limited circulation outside large cities, radio and television served as the principal news source for many citizens. Satellite dishes that received foreign television broadcasts were forbidden; however, many citizens, particularly the wealthy, owned them. The government has in the past blocked foreign satellite transmissions using powerful jamming signals. Separately the government ruled that private broadcasting was illegal, and cooperation with any private broadcasting was also illegal.

Foreign journalists also faced harassment. The government required foreign correspondents to detail their travel plans and proposed stories before receiving visas; some were denied visas.

The culture ministry must give permission to publish any book and inspects foreign printed materials prior to their domestic release. In November the minister of Islamic culture and guidance promised more stringent controls on books, cinema, and theater, although he indicated the change would not be immediate. He also warned of greater surveillance of "hundreds" of cultural associations. The new cultural ministry officials have also reportedly cancelled more than 30 concerts.

The government also effectively censored domestic films, since it remained the main source of production funding. Producers must submit scripts and film proposals to government officials in advance of funding approval. After President Ahmadinejad assumed office in August, the supreme cultural revolution council announced a ban of movies promoting secularism, feminism, unethical behavior, drug abuse, violence, or alcoholism. Films of some domestic directors were not permitted to be shown in the country.

The government restricted academic freedom. Government informers were common on university campuses. More generally, there were reports that the government maintained a broad network of student informants in Qom's major seminaries, who reported teachings counter to official government positions.

Admission to universities was politicized; all applicants had to pass "character tests" in which officials eliminated applicants critical of the government's ideology. To obtain tenure, professors had to refrain from criticism of the authorities. The new administration changed the heads of many universities. At Tehran University, students protested when the government overrode the normal selection process and for the first time named a cleric without an advanced degree, who was also a Tehran University professor, to run the institution.

#### *b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The constitution permits assemblies and marches "provided they do not violate the principles of Islam"; however, in practice the government restricted freedom of assembly and closely monitored gatherings to prevent antigovernment protests. Such gatherings included public entertainment and lectures, student gatherings, labor protests, funeral processions, and Friday prayer gatherings.

During a wave of student protests in 2003, government-supported vigilantes beat many protestors, and police arrested approximately four thousand persons according to government figures shortly after the protests. It was not known how many of

those arrested were still in jail; approximately 130 were still detained as of December 2004. An unknown number of students arrested in the 1999 demonstrations remained in prison (see section 1.e.).

Paramilitary organizations such as the Ansar-e Hizballah, a group of vigilantes who seek to enforce their vision of appropriate revolutionary comportment upon the society, harassed, beat, and intimidated those who demonstrated publicly for reform. They particularly targeted university students. On November 7, unknown assailants attacked a prominent political activist, Behzad Nabavi, in Khuzestan.

On June 8, human rights activists and representatives of the Union of Advocates of Democracy demonstrated at Evin prison and called for the release of Naser Zarafshan (see section 1.e.). A student committee in Tabriz held a hunger strike in support. Approximately 200 persons protesting Akbar Ganji's imprisonment clashed with police on July 12. According to the press, police beat dozens of the protestors with batons to break up the demonstration and arrested some distributing leaflets. Hashem Aghajari, a former political prisoner (see section 1.e.), and some family members of detainees participated. On August 11, a crowd of 100 to 250 persons gathered in front of the hospital where Ganji was held to protest his detention. Organized by a student organization, the office for strengthening unity, student leader Ali Afshari (see section 1.e.) called for Ganji's immediate release.

*Freedom of Association.*—The constitution provides for the establishment of political parties, professional associations, Islamic religious groups, and organizations for recognized religious minorities, provided that such groups do not violate the principles of “freedom, sovereignty, and national unity,” or question Islam as the basis of the Islamic Republic; however, the government limited freedom of association, in practice.

In 2002 the government permanently dissolved the Freedom Movement, the country's oldest opposition party, jailing some members and barring others from political activity for up to 10 years (see sections 1.e. and 3).

The intelligence ministry prevented members of the Iran Writers Association from meeting on May 3 to prepare for the group's general assembly. According to one broadcast report, ministry officials told the group that their lives were in danger.

*c. Freedom of Religion.*—The constitution declares that the “official religion of Iran is Islam and the doctrine followed is that of Ja'fari (Twelver) Shi'ism.” The constitution also states that “other Islamic denominations are to be accorded full respect” and recognizes Zoroastrians, Christians, and Jews, the country's pre-Islamic religions, as “protected” religious minorities; however, in practice the government restricted freedom of religion. Religions not specifically protected under the constitution, particularly Baha'is, did not enjoy freedom of religion.

The central feature of the country's Islamic republican system is ruled by a “religious jurisconsult.” Its senior leadership consisted principally of Shi'a clergymen, including the supreme leader of the revolution, the president, the head of the judiciary, and the speaker of parliament.

*Societal Abuses and Discrimination.*—The population is approximately 99 percent Muslim, of which 89 percent were Shi'a and 10 percent Sunni. Baha'i, Christian, Zoroastrian, and Jewish communities constituted less than 1 percent of the population.

The government carefully monitored the statements and views of the country's senior Muslim religious leaders. It restricted the movement of several who have been under house arrest for years. All ranking clerics were pressured to ensure their teachings confirmed or at least did not contradict government policy and positions (see section 1.e.).

Sunni Muslims are the largest religious minority in the country. The constitution provides Sunni Muslims a large degree of religious freedom. In practice Sunni Muslims claimed that the government discriminated against Sunnis, although it was hard to distinguish whether the cause for discrimination was religious or ethnic, since most Sunnis are also ethnic minorities. As an example, Sunnis cited the lack of a Sunni mosque in the nation's capital, Tehran, despite over a million Sunni inhabitants.

Members of the country's non-Muslim religious minorities, particularly Baha'is, reported imprisonment, harassment, and intimidation based on their religious beliefs. On November 21, the domestic press quoted a leading cleric, Ayatollah Janati, as saying humans who follow anything but Islam are like animals who graze and commit corruption. The remark was widely criticized in the country, and the majles representative of the Zoroastrian community publicly condemned Janati's remarks. The representative was then summoned to court to face charges of spreading false news and showing lack of respect for authorities, but at year's end no case had been pursued against him.

All religious minorities suffered varying degrees of officially sanctioned discrimination, particularly in employment, education, and housing. With the exception of Baha'is, the government allowed recognized religious minorities to conduct religious education of their adherents, although it restricted this right considerably in some cases. Religious minorities are barred from election to a representative body, except for the five majles seats reserved for minorities, and from holding senior government or military positions, but they were allowed to vote. Although the constitution mandates an Islamic army, members of religious minorities sometimes served in the military.

The legal system previously discriminated against the recognized religious minorities in relation to "blood money"; however, in January 2004 the expediency council authorized collection of equal blood money for the death of Muslims and non-Muslim men. Women and Baha'i men remained excluded from the revised ruling.

Proselytizing of Muslims by non-Muslims is illegal. The government did not ensure the right of citizens to change or recant their religion. Apostasy, specifically conversion from Islam, is punishable by death; there were no reported instances of the death penalty being applied for apostasy during the year. However, there was an unconfirmed report on Christian Web sites that on November 22, unidentified persons killed a man who had converted to Christianity more than 10 years earlier. Reportedly, his death was followed by repression of other Christians, including arrests of 10 Christians.

Baha'is are considered apostates because of their claim to a religious revelation subsequent to that of the Prophet Mohammed. The government defined the Baha'i Faith as a political "sect" linked to the Pahlavi monarchy and, therefore, as counterrevolutionary. Historically at risk, Baha'is often have suffered increased levels of mistreatment during periods of political unrest and also faced discrimination prior to the revolution as well as currently.

Baha'i organizations outside the country warned that the circumstances of their coreligionists deteriorated during the year. The country's estimated 300 to 350 thousand Baha'is were not allowed to teach or practice their faith or maintain links with coreligionists abroad. The government continued to imprison and detain Baha'is based on their religious beliefs. In 1993 the UN Commission on Human Rights released a copy of a 1991 memorandum from the supreme revolutionary council to the supreme leader, which outlined processes to gradually strangle the Baha'i community, including banning Baha'is from all higher education. A 2001 justice ministry report also indicated that government policy aimed at the eventual elimination of the Baha'is as a community.

On December 19, the longest held Baha'i prisoner, Zabihullah Mahrami, died in prison of unknown causes. Mahrami was arrested in 1995 and faced a life sentence for apostasy. Two other Baha'is were in prison at year's end, including Mehran Kawsari, who wrote a letter in November 2004 to then President Khatami on the situation of Baha'is. He was sentenced to three years in prison for activities against the security of the state and spreading falsehoods. In addition the government arrested 65 other Baha'is, detained them, but later released them on bail. While imprisoned, often their families were not informed of their location, and authorities denied any record of their arrests or did not indicate charges against them. Some were not allowed to work for several months after their release. Government agents also searched numerous Baha'i homes and seized possessions.

In 2004 for the first time, Baha'i applicants were permitted to participate in the nationwide exam for entrance into state-run colleges. However, for those students who passed the exam, the word "Islam" was preprinted on their forms. This action precluded Baha'i matriculation, since Baha'is do not deny their faith; only a few students were allowed to enroll. Despite many with high scores, no Baha'i students were accepted into state universities during the year. Private universities reportedly only accepted adherents to officially recognized religions.

The UNGA resolution on the country's human rights passed in December expressed serious concern at continuing discrimination against religious minorities, citing in particular the escalation of violations against Baha'is. It called on the government to implement the 1996 report of the UNSR of the commission on human rights on religious tolerance, particularly in regard to the Baha'i community.

In 2001 the UNSR estimated the Christian community at approximately 300 thousand. Of these the majority were ethnic Armenians and Assyro-Chaldeans. Protestant denominations and evangelical churches also were active, but they reported restrictions on their activities. The authorities became particularly vigilant in recent years in curbing proselytizing activities by evangelical Christians. Some unofficial estimates indicated there were approximately 100 thousand Muslim-born citizens who converted to Christianity. The UNSR estimated that 15 thousand to 20 thousand Christians a year emigrated; however, given the continued exodus from

the country for economic and social reasons, it was difficult to establish the role religion played in the choice to emigrate.

In May and June 2004, several Christians in the northern part of the country reportedly were arrested, and in September 2004 officials raided a Protestant Assemblies of God church, imprisoning its minister and former military officer, Hamid Pourmand. He was reportedly held incommunicado for five months. In February a military court found Pourmand guilty of “deceiving the armed forces” for not declaring he was a convert to Christianity. He was sentenced to three years in prison and discharged from the military, despite presenting evidence to demonstrate that his military superiors knew he was a Christian. On May 2, the judiciary spokesman said Pourmand was convicted for involvement with a “political group” and not because of his religion. On May 28, the Bushehr revolutionary court cleared Pourmand of apostasy but sentenced him to three years in prison for espionage.

Estimates of the Jewish community varied from 15 thousand to 30 thousand. The government’s anti-Israel stance, and the perception among many citizens that Jewish citizens supported Zionism and Israel, created a threatening atmosphere for the community.

In April Ayatollah Hossein Nouri-Hamedani, a leading religious authority, told a group of clerics that “one should fight the Jews and vanquish them,” to hasten the return of the Hidden Imam.

In late October President Ahmadinejad told “The World without Zionism” conference that “As the Imam [revolutionary leader, Ayatollah Ruhollah Khomeini] said, Israel must be wiped off the map.” While chants of “Death to Israel” were frequently heard at public gatherings, this was the first call for Israel’s destruction by an government official in recent years. His remarks were internationally condemned, including by the UN Security Council. Supreme Leader Khamenei, while not repudiating Ahmadinejad’s remarks, said the country would not commit aggression against any nation. Nonetheless, Ahmadinejad continued in subsequent speeches to make similar comments, labeling the Holocaust a myth and proposing the removal of the Jewish state from the Middle East.

Jewish leaders reportedly were reluctant to draw attention to official mistreatment of their community and did not openly express support for Israel for fear of reprisals. Nonetheless, according to domestic media, on April 13, the Jewish member of parliament, supported by the speaker, complained that state television broadcast anti-Semitic programs. He said repeated complaints had not changed the situation.

Islamic Republic of Iran Broadcasting (IRIB) replied in a letter read in the majles that its programming was based on “research and documentary evidence” and claimed programming gave more attention to positive Jewish characters, according to an April 21 local press report. IRIB’s statement notwithstanding, anti-Semitic material on Iranian television included a serial started in December 2004, “Zahra’s Blue Eyes,” in which Israelis reportedly kidnap Palestinian children to harvest organs for transplant. Another program, *Al-Shatat*, originally broadcast by Hizballah’s Al-Manar television channel, portrayed the Jewish people as responsible for most of the world’s problems.

In recent years the government has made the education of Jewish children more difficult by strongly discouraging the distribution of Hebrew texts and requiring that several Jewish schools remain open on Saturdays, the Jewish Sabbath. Individual Jews worshiped without systematic persecution; however, a synagogue in Esfahan was vandalized in mid-November. There were limits on the level to which Jews can rise professionally, particularly in government. Jewish citizens were permitted to obtain passports and travel outside the country. They were periodically denied the multiple-exit permits issued to others, and on occasion the government did not permit all members of a Jewish family to travel outside the country at the same time.

The Mandeans, whose religion draws on Christian Gnostic beliefs, number approximately 5 thousand to 10 thousand persons, primarily in the southwest. There were reports that Mandaean experienced discrimination, pressure to convert to Islam, and problems accessing higher education. The Zoroastrian community, whose religion was the country’s official religion before Islam, numbers approximately 30 to 35 thousand. Sufi organizations outside the country have in the past expressed concern about government repression of Sufi religious practices.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The government placed some restrictions on these rights. Citizens may travel within the country and change their place of residence without obtaining official permission. The government required exit permits for foreign travel for draft-

age men and citizens who were politically suspect. Some citizens, particularly those whose skills were in short supply and who were educated at government expense, must post bonds to obtain exit permits. The government restricted the movement of certain religious minorities and several religious leaders (see sections 1.d. and 2.c.), as well as some scientists in sensitive fields.

On January 25, according to domestic media, the revolutionary court announced that former deputy minister for Islamic culture and guidance, Issa Saharkhiz, was banned from foreign travel. Saharkhiz headed a press freedom association and was accused of giving interviews to foreign media, spreading propaganda against the country, waging psychological warfare, exploiting his position, misusing government property, and earning money illegally. According to domestic media on April 6, government authorities prevented Journalists' Guild head, Rajabali Mazrui, from leaving the country for a conference in Denmark; no reason was given (see sections 1.e. and 2.a.). At year's end the president of the Association in Defense of Prisoners' Rights, Emaddedin Baqi, was prevented from going to France to accept a human rights prize.

Citizens returning from abroad sometimes were subjected to searches and extensive questioning by government authorities for evidence of antigovernment activities abroad. Recorded and printed material, personal correspondence, and photographs were subject to confiscation.

Women must obtain the permission of their husband, father, or another male relative to obtain a passport. Married women must receive written permission from their husbands before leaving the country.

The government did not use forced external exile, and no information was available regarding whether the law prohibits such exile; however, the government used internal exile as a punishment.

The government offered amnesty to rank-and-file members outside the country of the Iranian terrorist group, Mujaheddin-e Khalq (MEK), and the ICRC assisted voluntary repatriation from Iraq. Approximately 300 MEK members have voluntarily repatriated.

*Protection of Refugees.*—The law provides for granting asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol. The government has established a system for providing protection to refugees. There were no reports of the forced return of persons to a country where they feared persecution; however, there were reports that the government deported refugees deemed "illegal" entrants into the country. In times of economic uncertainty, the government increased pressure on refugees to return to their home countries. The government generally cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and refugee seekers.

There was no information on the policy of the government regarding temporary protection to individuals who may not qualify as refugees under the 1951 Convention or its 1967 protocol.

According to UNHCR, the country was the leading refugee-hosting country in 2004, with 1,046,000 refugees. According to the US Committee for Refugees and Immigrants (USCRI), these included 952,800 Afghans and 93,200 Iraqis. Less than 10 percent of Iraqis and 2 percent of Afghans lived in camps, according to USCRI. The country closed most of its camps after large-scale returns of Iraqis.

In September 2004 UNHCR estimated that approximately one million refugees from Afghanistan were in the country, with up to one million having returned to Afghanistan since the fall of the Taliban in December 2001. The government accused many Afghans of involvement in drug trafficking.

According to USCRI, the country passed regulations in February that increased fines for employers of Afghans without work permits and imposed new restrictions making it difficult for Afghans to obtain mortgages, rent or own property, and open bank accounts. It did not impose the same restrictions on Iraqi refugees. These rules also included new restrictions on residence in certain cities and regions and lifted the earlier exemption from school fees for Afghan refugee children. UNHCR cut all education assistance to Afghans.

In January a government official was quoted in domestic media that Afghan refugees could no longer stay because there was no more aid from international organizations and the UNHCR had not provided funding since the summer of 2004. However, he denied the country was forcibly repatriating Afghan refugees.

In January the judiciary announced amnesty for imprisoned Afghans, including those on death row. Following their release, these Afghans would be repatriated. There were reports early in the year of Afghans being arrested and deported in the southeast of the country. Most were illegal migrants, seeking to stay in the country for economic reasons, but some had temporary residence permits. Government offi-



cials denied arresting refugees. USCRI's June survey noted that the country had deported 140 thousand Afghans, including some with refugee status. At one border crossing, the government worked with UNHCR to allow deportees to claim asylum or other reasons why they should not be deported, but it did not set up similar facilities at other border crossings.

The UNHCR estimated that in 2001 there were approximately 200 thousand Iraqi refugees in the country, the majority of whom were Iraqi Kurds, but also including Shi'a Arabs. In numerous instances both the Iraqi and Iranian governments disputed their citizenship, rendering many of them stateless.

In November 2003 the UNHCR initiated a pilot repatriation of Iraqi refugees from the country. According to UNHCR, there were 5,627 facilitated returns during the year and a total of 18,303 such returns since 2003. Additionally, an estimated 185 thousand refugees returned spontaneously to Iraq since 2003, including approximately 60 thousand during the year. The country honored UNCHR's advisory for Iraqi refugees that conditions in Iraq were not conducive to mass returns.

Although the government claimed to host more than 30 thousand refugees of other nationalities, including Tajiks, Uzbeks, Bosnians, Azeris, Eritreans, Somalis, Bangladeshis, and Pakistanis, it did not provide information about them or allow the UNHCR or other organizations access to them. On August 17, a small group of Uzbeks living in the country without refugee status protested outside of several European embassies in Tehran, pleading for asylum in the West. They claimed that they could not return to Uzbekistan where they would be accused of membership in the Islamic Movement of Uzbekistan terrorist organization. Subsequently, UNHCR told the media that their cases were under consideration; however, there was no further information on other refugees during the year.

USCRI also reported that few international humanitarian agencies operated in the country because the government restricted their operations and did not allow UNHCR to fund them.

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

*Elections and Political Participation.*—The right of citizens to change their government was restricted significantly. The supreme leader, the recognized head of state, is elected by the assembly of experts and can only be removed by a vote of this assembly. The assembly is restricted to clerics, who serve an eight-year term and are chosen by popular vote from a list approved by the government. There is no separation of state and religion, and clerical influence pervades the government. According to the constitution, a presidential candidate must be elected from among religious and political personalities ("rejal"—interpreted by the guardians council as meaning men only), of Iranian origin, and believe in the Islamic Republic's system and principles. The council of guardians, which reviews all laws for consistency with Islamic law and the constitution, has "approbatory supervision," which allows it to screen candidates for election. It accepted only candidates who supported a theocratic state. The supreme leader also approved the candidacy of presidential candidates, with the exception of an incumbent president. Prior to the 2004 parliamentary elections, the guardians council vetoed legislation that would have required it to reinstate disqualified candidates unless the council legally documented their exclusion. Regularly scheduled elections are held for the presidency, the majles, and the assembly of experts, as well as local councils.

The December 16 UNGA resolution on the country's human rights expressed serious concern at "the absence of many necessary conditions" for free and fair elections during the June presidential campaign, including arbitrary disqualification of large numbers of prospective candidates and excluding all women.

The fairness of the June presidential elections was undermined both before and during the polls. The council of guardians initially approved the candidacies of only 6 of 1,014 persons who registered and excluded all 89 female candidates, as well as anyone critical of the leadership, including former cabinet ministers. Following a request from Speaker of the Parliament Haddad-Adel, the supreme leader sent the council a letter asking that two candidates be reconsidered, and the council agreed.

Many candidates and the interior ministry complained of irregularities during the course of the polling, including interference by military and basiji, defamation of the candidates, and vandalism of campaign materials; there were no international election observers. The guardians council conducted a partial and random recount of first round ballots and said it found no evidence of fraud. In the second round, among the problems reported was that security personnel allegedly arrested an interior ministry official who was trying to inspect a polling station. After the second round, the supreme leader denied the allegations of basiji involvement, and the guardians council validated the results on June 29. In July the interior minister an-

nounced he was prepared to order a partial recount, but the guardians council made clear it considered the results final. Domestic press said 104 cases of alleged violations were under review and suspects detained in 26 cases. According to official statistics, Mahmoud Ahmadinejad won the run-off race with 61 percent of the votes.

Newspapers that published a letter from one candidate, Mehdi Karroubi, to the supreme leader complaining of wrongdoing in the first round were banned from publishing the following day (see section 2.a.).

Elections that were widely perceived as neither free nor fair were held for the 290-seat majles in February 2004. The guardians council barred over a third of the more than 8 thousand prospective candidates, mostly reformists, to include over 85 sitting majles members seeking re-election.

Elections were last held in 1998 for the 86-member assembly of experts and were scheduled to be held in 2006. In 1998 the council of guardians disqualified numerous candidates, which led to criticism from many observers that the government improperly predetermined the election results.

The constitution allows for the formation of parties. There are more than 100 registered political organizations, but these groups tended to be small entities, often focused around an individual, and do not have nation-wide membership. Following the June presidential elections, these political groupings significantly reorganized, with new groups forming and existing entities changing leadership.

In 2002 the government permanently dissolved the Freedom Movement, the country's oldest opposition party, and sentenced over 30 of its members to jail terms ranging from 4 months to 10 years on charges of trying to overthrow the Islamic system. Other members were barred from political activity for up to 10 years and fined (see section 2.b.).

Women held 12 out of 290 majles seats. There were no female cabinet ministers, although several held high-level positions, including one of the nine vice presidents and head of the environmental protection organization. Five majles seats are reserved for religious minorities. Other ethnic minorities in the majles include Arabs and Kurds. There were no non-Muslims in cabinet or on the supreme court.

*Government Corruption and Transparency.*—There was widespread public perception of extensive corruption in all three branches of government, to include the judiciary, and in the *bonyads* (foundations supposedly for charitable activity). In March Judiciary Head Shahrudi claimed the judiciary was pursuing “700 to 800” corruption files related to state officials. However, he clarified that these offenses were usually the work of “junior administrators” and high officials should not be prosecuted for the activities of their subordinates. On October 24, in responding to criticism of a government report on corruption that omitted names, Shahrudi said that those involved with financial crimes would not be publicly identified until they are found guilty or the appeals process exhausted. He also reportedly told the majles on November 2 that inefficient economic institutions were at the root of corrupt practices and the duality of the economy—both state and private ownership—contributed to the problem.

The country apparently has no laws providing for public access to government information.

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

The government continued to restrict the work of local human rights groups. The government denies the universality of human rights and has stated that human rights issues should be viewed in the context of a country's “culture and beliefs.”

In July 2004 the government granted permission to operate to an independent nonpolitical NGO, the Society for the Defense of the Rights of Prisoners. It worked to protect detainees and promote prison reform, established a small fund to provide free legal advice to prisoners, and supported the families of detainees. Founders included former political prisoners Emadeddin Baqi and Mohammad Hassan Alipour. On September 4, the group appealed to Judiciary Chief Ayatollah Shahrudi for progress in some of the most sensitive political prisoners' cases (see section 1.e.).

Various professional groups representing writers, journalists, photographers, and others attempted to monitor government restrictions in their fields, as well as harassment and intimidation against individual members of their professions. On February 15, the Association in Defense of Press Freedoms announced that eight persons involved in press affairs were in prison (see section 1.e.). However, the government severely curtailed these groups' ability to meet, organize, and effect change.

There were domestic NGOs working in areas such as health and population, women and development, youth, environmental protection, human rights, and sustainable development. Some reports estimated a few thousand local NGOs were in

operation. However, a more restrictive environment accompanied the new presidential administration.

The EU established a human rights dialogue with the country in 2002, but in a December 20 press release, it called the results disappointing and said the country had not agreed to a meeting during the year. The EU expressed deep concern that the human rights situation had not improved and in many respects worsened.

International human rights NGOs were not permitted to establish offices in or conduct regular investigative visits to the country. On an exceptional basis, in June 2004 AI officials visited the country as part of the EU's human rights dialogue, joining academics and NGOs to discuss the country's implementation of international human rights standards.

The ICRC and the UNHCR both operated in the country. The government allowed the UN Special Rapporteur on violence against women to visit from January 29 to February 6, and the UNSR on housing from July 19 to 30. The December UNGA resolution on human rights in the country encouraged the government to receive UNSRs on extrajudicial, summary, or arbitrary executions, torture, independence of judges and lawyers, freedom of religion or belief, and freedom of opinion and expression. It also encouraged the government to receive the Special Representative of the Secretary General on the situation of human rights defenders and the Working Group on Enforced or Involuntary Disappearances.

The Islamic Human Rights Commission was established in 1995 under the authority of the head of the judiciary, who sits on its board as an observer. In 1996 the government established a human rights committee in the majles, the article 90 commission, which received and considered complaints regarding violations of constitutional rights; however, when the seventh majles formed its new article 90 commission, the commission dropped all cases pending from the sixth majles. During the year the commission took no effective action.

In 2003 lawyer and human rights activist Shirin Ebadi received the Nobel Peace Prize for her work in advancing human rights. Ebadi has campaigned on behalf of women, children, and victims of government repression. She represented the family of Darius and Parvaneh Forouhar, killed in 1998, and the family of a student killed during the 1999 student protests, and was arrested in 2000. Ebadi is a founder of the Center for the Defense of Human Rights, which represents defendants in political cases.

In mid-January Ebadi announced that the judiciary summoned her, but she claimed the summons was not legal because it did not specify any charges. She refused to attend, and the summons was withdrawn. Subsequently, the head of the revolutionary court said there was no complaint against Ebadi and that there was no reason to summon her, but that she had misunderstood a summons from the court. On February 23, Ebadi refused to appear in court in a case relating to a recording she and another attorney, Mohsen Rahami, made in 2001 of a former Ansar-e Hizballah member describing the activities of such groups in attacking reformists.

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

In general the government did not discriminate on the basis of race, disability, language, or social status; however, it discriminated on the basis of religion, sex, and ethnicity. The poorest areas of the country are those inhabited by ethnic minorities, such as by the Baluchis in Sistan va Baluchestan Province and by Arabs in the southwest. Much of the damage suffered by Khuzestan Province during the eight-year war with Iraq has not been repaired; consequently, the quality of life of the largely Arab local population was degraded. Kurds, Azeris, and Ahvazi Arabs were not allowed to study their languages.

*Women.*—The constitution says all citizens both men and women, equally enjoy protection of the law and all human, political, economic, social, and cultural rights, in conformity with Islamic rights. Article 21 states that the government must ensure the rights of the women in all respects, in conformity with Islamic criteria.

Nonetheless, provisions in the Islamic civil and penal codes, in particular those sections dealing with family and property law, discriminate against women. Shortly after the 1979 revolution, the government repealed the 1967 Family Protection Law that provided women with increased rights in the home and workplace and replaced it with a legal system based largely on Shari'a practices. In 1998 the majles passed legislation that mandated segregation of the sexes in the provision of medical care. In 2003 the council of guardians rejected a bill that would require the country to adopt a UN convention ending discrimination against women.

The December UNGA resolution on country's human rights expressed serious concern at "the continuing violence and discrimination against women and girls in law and in practice, despite some minor legislative improvements. . . ." Early in the year, a UNSR on violence against women visited the country and, at her final press

conference, spoke out against legal gender bias; however, at year's end the UNSR report was not released.

During recent years women fought for and received relative liberalization of gender-based treatment in a number of areas. However, many of these changes were not legally codified. The female members of the seventh majles elected in 2004 were more conservative than their predecessors and rejected some previous efforts to achieve equal rights. After the June election of conservative President Ahmadinejad, women expected immediate repression of their societal status. While there was not immediate radical change, there were indications of increased restrictions. For example, in October the government announced that female civil servants in the culture ministry and female journalists at the state newspaper and news agency should leave the office by 6 p.m. to be with their families. However, there was no indication that violators would be punished.

Activists on women's issues expressed concern that the woman selected by President Ahmadinejad to lead the Center for Women's Participation, which is affiliated with the office of the president, does not have a background in women's issues. In addition the government changed the name of the organization to the Center for Women and Family, raising concern that the organization sought to reorient debate on women's problems to focus only on those related to the home.

Although spousal abuse and violence against women occurred, reliable statistics were not available. Abuse in the family was considered a private matter and seldom discussed publicly, although there were some efforts to change this attitude. Rape is illegal and subject to strict penalties, but it remained a widespread problem. According to the government's current report on the rights of the child, the Center for Women's Participation and the United Nations International Children's Emergency Fund (UNICEF) organized the first educational workshop on women and girls' human rights, held January 16 to 19. Freedom from violence was one of the topics. It also stated that in 2004 the Center for Women's Participation established a national committee, based in the health ministry, to combat violence against women.

According to a 2004 report on the country from the Independent Researchers on Women's Issues, there were no reliable statistics for honor killings, but there was evidence of "rampant" honor killings in the western and southwestern provinces, namely Khuzestan and Elam. The punishment for the perpetrators was often a fairly short prison sentence.

There is no evidence that female genital mutilation (FGM) was practiced in the country. However, FGM was recently documented as prevalent in some Iraqi Kurdish communities, which raised the question of whether it was also practiced in the Iranian Kurdish region.

Prostitution is illegal, but *sigheh*, or temporary marriage, is legal. Accurate information regarding the extent of prostitution was not widely available, although the issue received greater attention. Press reports described prostitution as a widespread problem, with estimates of 300 thousand women working as prostitutes. The problem appeared aggravated by difficult economic conditions and rising numbers of drug users and run-away children.

In 2004 human rights groups reported that Leyla Mafi, a mentally handicapped 18-year-old, faced imminent execution for "morality-related" offences arising from her being forced into prostitution by her parents as a child. A court in Arak issued a death sentence in April 2004 despite testing that suggested Mafi had a mental age of eight. In July a domestic Internet news site reported that higher court judges rescinded the death sentence and overturned the decisions of the lower court. Judges also overturned the five-year sentence recommended by the anticorruption and prostitution office and issued by the lower court.

The law requires court approval for the marriage of girls below the age of 13 and boys younger than 15. Although a male can marry at age 15 without parental consent, the 1991 civil law states that a virgin female, even more than 18 years of age, needs the consent of her father or grandfather to wed, or the court's permission. The country's Islamic law permits a man to have up to four wives and an unlimited number of temporary partnerships, called *sigheh*, based on a Shi'a custom in which a woman may become the wife of a Muslim male after a simple religious ceremony and a civil contract with conditions of the union. The temporary marriages may last any length of time and are used sometimes by prostitutes. Such wives are not granted rights associated with traditional marriage.

The penal code includes provisions for stoning persons convicted of adultery, although judges were instructed in 2002 to cease imposing such sentences. During the year there were two reports of women sentenced to stoning for adultery; however, there were no reports these sentences were implemented (see section 1.c.). In addition a man could escape punishment for killing a wife caught in the act of adultery, if he was certain she was a consenting partner; the same rule does not apply for

women. Women may receive disproportionate punishment for crimes, including death sentences (see section 1.a.). Women have the right to divorce if their husband signed a contract granting that right or if the husband cannot provide for his family, is a drug addict, insane, or impotent. However, a husband is not required to cite a reason for divorcing his wife.

A widely used model marriage contract limits privileges accorded to men by custom, and traditional interpretations of Islamic law recognize a divorced woman's right to a share in the property that couples acquire during their marriage and to increased alimony. In 2002 the law was revised to make adjudication of cases in which women demand divorces less arbitrary and costly. Women who remarry are forced to give the child's father custody of children from earlier marriages. However, the law granted custody of minor children to the mother in certain divorce cases in which the father was proven unfit to care for the child. In 2003 the government amended the existing child custody law to give a mother preference in custody for children up to seven years of age (previously she only had preference for sons up to age two); thereafter, the father had custody. After the age of seven, in disputed cases, custody of the child was to be determined by the court.

The testimony of two women equates with that of one man. The blood money paid to the family of a female crime victim is half the sum paid for a man. A married woman must obtain the written consent of her husband before traveling outside the country (see section 2.d.).

Women had access to primary and advanced education. Reportedly over 60 percent of university students were women; however, social and legal constraints limited their professional opportunities. Women were represented in many fields of the work force, including the legislature and municipal councils, police and fire fighters. However, their unemployment rate reportedly was significantly higher than for men, representing only 11 percent of the work force. Women reportedly occupied 1.2 percent of higher management positions, and 5.2 percent of managerial positions.

Women cannot serve as president or as judges (women can be consultant and research judges without the power to pass judgment). Eighty-nine women registered to run for president, but all were rejected by the guardian council. On June 2, women's groups protested the decision to reject female candidates, but it was not revised.

Women can own property and businesses in their name, and they can obtain credit at a bank. The law provides maternity, child care, and pension benefits. The number of women's NGOs has increased from approximately 130 to 450 in the past 8 years.

The government enforced gender segregation in most public spaces and prohibited women from mixing openly with unmarried men or men not related to them. Women must ride in a reserved section on public buses and enter public buildings, universities, and airports through separate entrances.

The penal code provides that if a woman appears in public without the appropriate Islamic covering (*hejab*), she can be sentenced to lashings and/or fined. However, absent a clear legal definition of appropriate *hejab* or the punishment, women were at the mercy of the disciplinary forces and or the judge (see section 1.c.). Since the election of President Ahmadinejad, proposals were introduced into the majles for a uniform "national dress" for women in public. Publication of pictures of uncovered women in the print media, including pictures of foreign women, was also prohibited.

*Children.*—There was little current information available to assess government efforts to promote the welfare of children. Except in isolated areas of the country, children had free education through the 12th grade (compulsory to age 11) and to some form of health care. Health care generally was regarded as affordable and comprehensive with competent physicians. Courts issued death sentences for crimes committed by minors (see section 1.c.).

The government, in compliance with its obligation as party to the Convention on the Rights of the Child, delivered a presentation to the Committee on the Rights of the Child in January. The government noted overall improvement in the situation of children, particularly in education and health. The education ministry reportedly paid particular attention on elevating the educational status of girls. It also noted the government's efforts to shelter refugees, many of whom were children. According to the report, 195 thousand Afghan and Iraqi refugee children were in school, and UNHCR paid only 10 percent of the education costs.

At the same time, the report acknowledged the need for other legislative protection and better enforcement of existing rules. The UN committee noted positively the provision of free education for all citizens up to secondary school. However, it expressed concern at persisting discrimination against girls and women and recommended that the government review all legislation to ensure it was nondiscriminatory. Among its recommendations, the committee urged the government to en-

sure all children were registered at birth and acquired irrevocable nationality without discrimination.

In July UNICEF held a workshop in Tehran to explore alternatives to imprisoning youths, according to IRIN (see section 1.c.). Only a few cities had a youth prison, and minors were sometimes held with adult violent offenders (see section 1.c.). According to IRIN there were 300 boys and 40 girls at the Tehran youth prison, with the average age of 14, but some were as young as age 6. Children whose parents cannot afford court fees were reportedly imprisoned for petty offenses including shoplifting, wearing make-up, or mixing with the opposite sex.

There was little information available to reflect how the government dealt with child abuse (see sections 6.c. and 6.d.). It was largely regarded as a private, family matter. According to IRIN, child sexual abuse was rarely reported. Nonetheless, according to the government's January report on the rights of the child, the health ministry developed over the past few years an action plan with UNICEF to fight child abuse, including training to health ministry officials on the rights of the child. The government also set up phone lines for children in foster care to report abuse. The July UNICEF conference in Tehran also addressed problems relating to child sexual abuse, including identifying, investigating, and protecting victims.

According to some reports, it is not unusual in rural areas for parents to have their children marry before they become teenagers, often for economic reasons. In 2002 parliament sought marriage age limits without court approval of 15 for girls and 18 for boys, but the guardian council objected, and the age was set at 13 for girls and 15 for boys. In the government's January report to the Committee on the Rights of the Child, it noted that early and forced marriages should be stopped.

There are reportedly significant numbers of children, particularly Afghan but also Iranian, working as street vendors in Tehran and other cities and not attending school. In January government representatives told the UN Committee on the Rights of the Child that there were less than 60 thousand street children in the country. Tehran has reportedly opened several shelters for street children. The government's January report on the rights of the child claimed seven thousand street children had been resettled to date.

*Trafficking in Persons.*—According to foreign observers, women and girls are trafficked to Pakistan, Turkey, and Europe for sexual exploitation. Boys from Bangladesh, Pakistan, and Afghanistan were trafficked through the country to the Gulf states. Afghan women and girls were trafficked to the country for sexual exploitation and forced marriages. Internal trafficking for sexual exploitation and forced labor also occurs. It was difficult to measure the extent of the government's efforts to curb human trafficking. It appears that the government did not fully comply with the minimum standards for the elimination of trafficking, but it has made significant efforts to do so. In 2004 the government conducted a study on trafficking of women, passed a law against human trafficking, and signed separate Memoranda of Understanding (MOU) with Afghanistan, Turkey, IOM, and the International Labor Organization (ILO). According to Pakistani press reports in December, Iran, Pakistan, Greece, and Turkey formed a joint working group to fight human trafficking. On September 22, domestic media reported that the Tehran police chief stated eight human trafficking networks smuggling mostly Bangladeshis, Afghans, and Pakistanis had been broken up and members arrested. During 2004 border police arrested more than 250 Pakistanis smuggled into the country, some of whom likely were trafficking victims.

*Persons with Disabilities.*—In May 2004 the majles passed a Comprehensive Law on the Rights of the Disabled; however, it was not known whether there was any implementing regulation. There was no information available regarding whether the government legislated or otherwise mandated accessibility for persons with disabilities, or whether discrimination against persons with disabilities was prohibited; nor was any information available on which government agencies were responsible for protecting the rights of persons with disabilities. The government's January report on the rights of the child outlined health and education programs for children with disabilities.

*National/Racial/Ethnic Minorities.*—The constitution grants equal rights to all ethnic minorities and allows for minority languages to be used in the media and schools. Few minority groups called for separatism. Instead, they complained of political and economic discrimination. Presidential candidates talked more about problems facing minority groups in this year's presidential elections than in the past. For instance, unsuccessful reformist candidate Mustafa Moin said ethnic groups in the country were not treated properly either in the past or present. He promised, if elected, to have a Sunni affairs department and cabinet members and to help ethnic Arabs. Conservative candidate Ali Larijani said all ethnic groups were impor-

tant, and Mohsen Rezai said there should be no differences between provinces or tribes.

In August the UNSR for Adequate Housing said that ethnic and religious minorities, nomadic groups, and women faced discrimination in housing and land rights, compounded by rising cost of housing. The Ahvaz representative in the previous majles wrote a letter to then President Khatami, complaining that Arab land was being bought at very low prices or even confiscated. He also said Arab political parties were not allowed to compete in elections, and Arabic newspapers and magazines were banned.

The December UNGA resolution on the country's human rights expressed serious concern at continuing discrimination to persons belonging to ethnic and religious minorities, including the recent violent repression of Kurds. There was violence in northwest, southwest, and southeast regions of the country, populated by various ethnic groups. Interior Minister Mustafa Purmohammadi ranked ethnic divisions as one of the biggest problems his ministry had to address. The government blamed foreign entities, including a number of Western countries, for instigating some of the ethnic unrest. Other groups claimed the government staged the bombs in Khuzestan as a pretext for repression.

Twice in June, Kurds clashed with police while celebrating political successes of Iraqi Kurdish leaders. In July and August, demonstrations and strikes in Kurdistan were sparked by the July 9 killing by security forces of a young Kurdish activist, known as Seyyed Kamal Seyyed Qader or Qaderi or Shavaneh, purportedly for encouraging celebrations of Iraqi Kurdish political successes. His brother claimed he was shot, killed, and then dragged throughout the city by a military vehicle. After his death there were protests in several areas, including reported attacks on government buildings.

According to HRW and other sources, security forces killed at least 17 persons; they also wounded and arrested large numbers of other individuals (see section 1.a.). At least seven security officials were reportedly killed in the fighting. Eyewitnesses in Saqqez told HRW that revolutionary guards fired indiscriminately to disperse the crowds, but the interior ministry denied government forces fired on protesters. At the same time, security forces clashed with Pejak, a group linked to the terrorist organization, the Kurdish Workers Party or PKK. On August 11, Pejak abducted four police officers but released them four days later.

HRW also reported security forces closed two newspapers and on August 2 detained Roya Toloui, a minority and women's rights activist; Azad Zamani, a member of the Association for the Defense of Children's Rights; Mohammad Sadeq Kabudvand, journalist and cofounder of Kurdistan Human Rights Organization; Jalal Zavami, editor of *Payam-e Mardom*; and Mahmoud Salehi, the spokesman for the Organizational Committee to Establish Trade Unions (see section 1.e.).

On September 6, Kabudvand announced that Ismail Mohammadi, arrested three years ago for collaborating with the Kurdish independence organization Komala, and Mohammad Panjini, convicted of membership in a Kurdish separatist organization, were executed on September 3. According to Kurdish groups, several other Kurdish political activists have been condemned to death.

The majles' national security and foreign policy committee studied the unrest, and its rapporteur told domestic media that one factor was the comparatively high level of economic development in Iraqi and Turkish Kurdish areas. The representative from Sanandaj, Kurdistan also cited the lack of Sunni cabinet members as a grievance. However, the results of a government inquiry were not made public by year's end.

Foreign representatives of the Ahwazi Arabs of Khuzestan, whose numbers could range from two to four million or higher, claimed their community in the southwest section of the country suffered from persecution and discrimination, including the right to study and speak Arabic. Violence also broke out during the year throughout Khuzestan, a sensitive region, given that most of the country's crude oil reserves are located in local onshore fields.

On April 15, protests in Ahwaz followed the publication of a letter—termed a forgery by the government—allegedly written in 1999 by an advisor to then President Khatami, referring to government policies to reduce the percentage of ethnic Arabs in Khuzestan. According to HRW, after security forces attempted to break up the demonstrations and opened fire, the clashes turned violent and spread to other towns. The government restricted press coverage of the events (see section 2.a.).

Then defense minister, Ali Shamkhani, an ethnic Arab, visited the region and reported 310 arrests and 3 or 4 deaths. However, HRW reported claims of at least 50 deaths and reported that the government charged families large payments for release of the bodies to compensate for damage in the protests. There were also

claims of up to 1,200 arrests on April 16 and 17 as well as torture and mistreatment of detainees.

On April 22, domestic press reported that “hundreds of thousands” participated in a solidarity march, to demonstrate loyalty to the nation. The western-based Ahwaz Human Rights Organization claimed that many were not Arabs and were bussed from other areas. On April 24, officials said 5 persons with primary responsibility for the unrest were arrested and had confessed, and that of the 330 persons arrested, 155 were released. By July 22, authorities said all but one arrested individual had been freed.

On April 30, an explosion along an oil pipeline from Khuzestan to Tehran reportedly did not cause damage or injuries. An Ahwaz Arab group claimed responsibility for the attack and claimed its goal was to end oppression of Ahwaz Arabs.

On June 12, four bombs exploded in Khuzestan, in addition to two in Tehran. The explosions in Khuzestan targeted government facilities or officials. As many as 10 were killed and close to 100 were injured (see section 1.a.). Three Arab groups claimed credit. Six persons were reportedly arrested the next day. In late July there were further riots in Khuzestan, and 30 persons were reportedly arrested. On August 16, government officials announced that they had arrested alleged antigovernment separatists who had confessed to links with foreign intelligence services.

On September 1, 3 bombs blocked transfers of crude oil from wells in Khuzestan, and on October 15, 2 bombs exploded in a market in Ahvaz, killing 5 and wounding 90. Again, the government blamed a western country. On October 30, authorities said 30 persons had been arrested in connecting with the June and October bombings.

The Ahwazi Human Rights Organization wrote a letter to the UN, dated November 7, claiming arbitrary arrests and executions of Ahwazi Arabs, including a lynching by security forces and extrajudicial killings in Karoon prison. The group claimed that on November 4, three thousand Ahwazis staged a peaceful demonstration; however, security forces responded with tear gas grenades, and two Arab youths drowned as a result. The group also claimed the government made mass arrests during a performance of a Ramadan play. Two persons arrested reportedly were sentenced to death.

In August the UNSR for Adequate Housing reported that 200 thousand to 250 thousand Arabs were being displaced from their villages over several years because of large development projects in Khuzestan. They received inadequate land compensation—sometimes one-fortieth of market value. Arabs also suffered from importation of labor from other regions, despite high local unemployment.

Azeris comprised approximately one-quarter of the country’s population and were well integrated into the government and society, including the supreme leader and the head of the IRGC. However, Azeris complained of ethnic and linguistic discrimination, including banning the Azeri language in schools, harassing Azeri activists or organizers, and changing Azeri geographic names. The government traditionally viewed Azeri nationalism as threatening, particularly since the dissolution of the Soviet Union and the creation of an independent Azerbaijan. Azeri groups also claimed that there were a number of Azeri political prisoners jailed for advocating cultural and language rights for Iranian Azerbaijanis. The government has charged several of them with “revolting against the Islamic state.”

The chief of the national police said security in southeastern Sistan va Baluchestan Province was more problematic than elsewhere in the country. In July an armed Sunni group claimed to have beheaded a government security agent, presumably in the province. Nine security officers and a Baluchi tribesman were reported killed on August 22 in an exchange of gunfire across the border with Pakistan.

*Other Societal Abuses and Discrimination.*—In 2004 the judiciary formed the special protection division, a new unit that allowed volunteers to police moral crimes.

The law prohibits and punishes homosexuality; sodomy between consenting adults is a capital crime. The punishment of a non-Muslim homosexual is harsher if the homosexual’s partner is Muslim. In July two teenage boys, one 16 and one 18 years of age, were publicly executed; they were charged with raping a 13-year-old boy. A number of groups outside the country alleged the two were executed for homosexuality; however, because of the lack of transparency in the court system, there was no concrete information (see section 1.c.). In November domestic conservative press reported that two men in their twenties were hanged in public for *lavat* (defined as sexual acts between men). The article also said they had a criminal past, including kidnapping and rape. It was not possible to judge whether these men were executed for homosexuality or other crimes.



According to the Paris-based International Federation of Human Rights, the justice system did not actively investigate charges of homosexuality. There were known meeting places for homosexuals, and there had been no recent reports of homosexuals executed. However, the group acknowledged it was possible that a case against a homosexual could be pursued. Conversely, the London-based homosexual rights group OutRage! claimed over four thousand homosexuals had been executed in the country since the Islamic revolution in 1979. A September 29 Western newspaper gave one man's account of a systematic effort by security agents and basiji to use Internet sites to entrap homosexuals.

According to health ministry statistics, by year's end there were 12,556 registered HIV-positive persons in the country, mostly men, but unofficial estimates were much higher. Transmission was primarily through shared needles by drug users, and a recent study showed shared injection inside prison to be a particular risk factor. There was a free anonymous testing clinic in Tehran, government-sponsored low-cost or free methadone treatment, including in prisons. The government supported programs for AIDS awareness and did not interfere with private HIV-related NGOs. Contraceptives were available at health centers as well in pharmacies. Nevertheless, persons infected with HIV were discriminated against in schools and workplaces.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to establish unions; however, the government did not permit independent unions. A national organization known as Workers' House was the sole authorized national labor organization. It served primarily as a conduit for government control over workers. The leadership of Workers' House coordinated activities with Islamic labor councils, which consisted of representatives of the workers and a representative of management in industrial, agricultural, and service organizations of more than 35 employees. These councils also functioned as instruments of government control and frequently blocked layoffs and dismissals.

The law allows employers and employees to establish guilds. The guilds issued vocational licenses and helped members find jobs. Instances of late or partial pay for government workers reportedly were common.

Workers appointed a committee to lobby for the right to form labor associations. The committee issued a statement signed by 5 thousand workers that it did not recognize agreements signed between the government and the ILO because workers had no independent representation at discussions. Workers criticized official unions for being too close to the government.

*b. The Right to Organize and Bargain Collectively.*—The country's ILO membership requires respect for the right of freedom of association. However, workers did not have the right to organize independently and negotiate collective bargaining agreements. The International Confederation of Free Trade Unions (ICFTU) noted the labor code was amended in 2003 to permit workers to form and join "trade unions" without prior permission if registration regulations are observed. The labor ministry must register the organization within 30 days.

In 2003 the Supreme Council of Labor, composed of representatives of Islamic labor councils, employers, and the government, exempted workshops of 10 employees or less from labor legislation. According to the ICFTU, this decision affected over 400 thousand of the country's 450 thousand workshops.

The law prohibits public sector strikes, and the government did not tolerate any strike deemed contrary to its economic and labor policies; however, strikes occurred. There are no mechanisms to protect workers rights in the public sector, such as mediation or arbitration.

In January teachers and nurses protested outside the majles over low wages and poor work conditions. The ICFTU reported harassment and arrests of representatives from the teachers' union. In mid-January Tehran teachers and nurses demonstrated to demand better wages and working conditions. In March teachers in six Tehran districts struck and demonstrated outside the majles regarding work conditions.

In a May 10 letter, ICFTU protested a May 9 attack on a meeting at the Bakery Workers' Association related to founding a union at the Tehran Vahed Bus Company. Reportedly 300 members of Hizballah and the Islamic Labor Councils attacked the site, despite the presence of security forces, and a committee member was badly injured. The ICFTU letter also protested the detention of Paris Saharan on April 12, his interrogation, and subsequent disappearance. Saharan was a worker at the Iran Chord automobile construction company, where there were ongoing worker protests.

The ICFTU also protested the detention in August of Borhan Divargar, a member of the Saqqez Bakery Workers' Union, and claimed he had been beaten. Among the charges against him were membership in a committee for establishing labor organizations and managing a labor Internet site. On November 12, he was reportedly sentenced to two years in prison. Mahmoud Salehi, the president of the Saqqez Bakery Workers' Union, was reportedly sentenced on November 9 to five years in prison and three years of exile. Salehi was also charged with contacting an ICFTU delegation that visited the country in April 2004. The government refused requests for international observers to be present at their trial.

In a September 9 letter to President Ahmadinejad, the ICFTU protested the September 7 detention and harassment of members of the Syndicate of Workers of Tehran and Suburbs Bus Company—Vahed. According to ICFTU, the government arrested workers during a protest against unpaid wages, charged them with disturbing public order, but then released them on bail. The ICFTU also protested the dismissal of 17 leaders and members of the syndicate, fired between April and June. Tehran bus drivers went on strike on December 25 to protest wages and arrests of 14 association leaders.

It was not known whether labor legislation and practice in the export processing zones (EPZs) differed from the law and practice in the rest of the country. According to the ICFTU, labor legislation did not apply in the EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law permits the government to require any person not working to take suitable employment; however, this did not appear to be enforced regularly. The law prohibits forced and bonded labor by children; however, this was not enforced adequately, and such labor by children was a serious problem (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced and bonded labor by children; however, there appeared to be a serious problem with child labor (see section 5). The law prohibits employment of minors less than 15 years of age and places restrictions on the employment of minors under age 18; however, the government did not adequately enforce laws pertaining to child labor. The law permits children to work in agriculture, domestic service, and some small businesses but prohibits employment of women and minors in hard labor or night work. There was no information regarding enforcement of these regulations.

*e. Acceptable Conditions of Work.*—The law empowers the Supreme Labor Council to establish annual minimum wage levels for each industrial sector and region; however, the council did not adjust the minimum wage during the year despite workers' claims that it was too low, and there was no information regarding mechanisms to set wages. On July 16, as reported by media, tens of thousands of workers across the country held a two-hour stoppage to protest the Supreme Labor Council decision not to raise the minimum wage, set at \$130 (122 thousand tomans) a month. A statement by Iran-Chord workers called for a minimum wage of \$550 (450 thousand tomans) a month to keep up with inflation. It was not known if minimum wages were enforced. The law stipulates the minimum wage should meet the living expenses of a family and should take inflation into account. However, many middle-class citizens must work at two or three jobs to support their families.

The law establishes a maximum 6-day, 48-hour workweek, with a weekly rest day, normally Fridays, and at least 12 days of paid annual leave and several paid public holidays.

According to the law, a safety council, chaired by the labor minister or his representative, should protect workplace safety and health. Labor organizations outside the country have alleged hazardous work environments were common in the country and resulted in thousands of worker deaths annually. The quality of safety regulation enforcement was unknown, and it was unknown whether workers could remove themselves from hazardous situations without risking the loss of employment.

There was anecdotal evidence suggesting some government employees and students voted in the presidential election to obtain the stamp proving they had voted. Without this stamp, they feared they would have employment or enrollment problems.

IRAQ<sup>1</sup>

Iraq, with a population of approximately 25 million, is a republic with a freely elected government. During the year unsettled conditions prevented effective governance in parts of the country, and the government's human rights performance was handicapped by insurgency and terrorism that impacted every aspect of life. In such an environment and supported by elements of the population, three groups with overlapping but largely different memberships violently opposed the government: Al-Qa'ida terrorists, irreconcilable remnants of the Ba'thist regime, and local Sunni insurgents waging guerrilla warfare. The ongoing insurgency, coupled with sectarian and criminal violence, seriously affected the government's human rights performance; elements of the security forces, particularly sectarian militias, frequently acted independently of governmental authority.

After the overthrow of the Ba'thist regime, and during the interim administration of the Coalition Provisional Authority (CPA), the Iraqi Governing Council adopted the Law for the Administration of the State of Iraq for the Transitional Period—the Transitional Administrative Law (TAL)—in March 2004. The TAL provided a legal structure for the country and set forth a transitional period to end upon the formation of a democratically chosen constitutional government. Accordingly, during the year the TAL was the operative law in the country.

The TAL established a republican, federal, democratic, and pluralistic system with powers shared among the federal and regional governments, including 18 governorates (provinces), as well as municipalities and local administrations. In March 2004 the TAL recognized the Kurdistan Regional Government (KRG) as the official government of those territories that the Kurdish Regional Government administered as of March 19, 2003 in the governorates of Dohuk, Irbil, Sulaymaniyah, Kirkuk, Diyala, and Ninewah.

The Iraqi Interim Government was vested with full governmental authority on June 28, 2004, and prepared elections for the Transitional National Assembly (TNA). These elections for the country's legislative authority and the first step in the formation of the Iraqi Transitional Government (ITG) took place on January 30. As a result of the elections, Prime Minister Ibrahim al-Ja'afari headed the transitional government, a coalition of Shi'a-dominated and Kurdish parties, which assumed power on April 28. In two subsequent polls, voters adopted a permanent constitution during an October 15 referendum and, in a first step toward establishing a permanent government, elected members of the country's new legislature, the Council of Representatives, on December 15. The elections and the referendum were generally regarded as transparent and as meeting international standards for credible, democratic elections, although marred by difficulties related to the ongoing conflict and lack of experience with free elections.

Throughout the year the prime minister renewed the "state of emergency" originally declared in November 2004 throughout the country, excluding Kurdistan. The state of emergency was based on the dangers posed by the ongoing campaign of violence aimed at preventing the establishment of a broad-based government and the peaceful participation of all citizens in the political process. The state of emergency allows for the temporary imposition of restrictions on certain civil liberties. Where there is specific evidence or credible suspicion of the crimes outlined by the law, the prime minister may impose curfews and certain restrictions on public gatherings, associations, unions and other entities; put a preventive freeze on assets; impose monitoring of and seizure of means of communication; and allow for the search of property and detention of suspects. Notwithstanding such powers, the law prohibits the prime minister from abrogating the TAL in whole or in part and provides for judicial review of all decisions and procedures implemented pursuant to this law. The government exercised these powers throughout the year.

The following human rights problems were reported:

- pervasive climate of violence
- misappropriation of official authority by sectarian, criminal, terrorist, and insurgent groups
- arbitrary deprivation of life
- disappearances
- torture and other cruel, inhuman, or degrading treatment or punishment
- impunity

<sup>1</sup>The 2005 report covers the human rights record of the Interim and Transitional Governments.

- poor conditions in pretrial detention facilities
- arbitrary arrest and detention
- denial of fair public trial
- an immature judicial system lacking capacity
- limitations on freedoms of speech, press, assembly, and association due to terrorist and militia violence
- restrictions on religious freedom
- large numbers of internally displaced persons (IDPs)
- lack of transparency and widespread corruption at all levels of government
- constraints on nongovernmental organizations (NGOs)
- discrimination against women, ethnic, and religious minorities
- limited exercise of labor rights

The law provided a structure for advances, and despite the violence the government set and adhered to a legal and electoral course based on respect for political rights. This agenda included most importantly the right of citizens to change peacefully their government through nationwide, free, and fair elections. The elevation of the state minister position on women's affairs to a full Ministry of Women's Affairs and the steady growth of NGOs and other associations reflected notable government and civic interest in human rights issues, especially those that were separable from internal security concerns.

Civic life and the social fabric remained under intense strain from the widespread violence, principally inflicted by insurgency and terrorist attacks. Additionally, the misappropriation of official authority by groups—paramilitary, sectarian, criminal, terrorist, and insurgent—resulted in numerous and severe crimes and abuses.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—A climate of extreme violence in which people were killed for political and other reasons continued. Reports increased of killings by the government or its agents that may have been politically motivated. Additionally, common criminals, insurgents, and terrorists undermined public confidence in the security apparatus by sometimes masking their identity in police and army uniforms (see section 1.g.).

Members of sectarian militias dominated police units to varying degrees and in different parts of the country. Two Shi'a groups, the Badr Organization (*Al-Badr Mujahideen*, formerly the Badr Corps), and the Army of the Mahdi (*Jaiish al-Mahdi*), were active within the Ministry of the Interior's (MOI) security forces, principally the police. The politically powerful Supreme Council of the Islamic Revolution in Iraq (SCIRI) created the Badr Corps as its armed wing in the 1980s in Iran, while the cleric Muqtada al-Sadr created the Mahdi Army in Baghdad's Shi'a poor areas after the fall of the former regime. Kurdish authorities retained regional control over police forces and internal security, which effectively empowered the two militias of Kurdish political parties to continue to provide police and security forces in Kurdistan. Police officers, who also were militia members, abused their official powers to pursue personal and party agendas (see section 1.d.). Many of the extra-legal killings appeared based on sectarian animus, although some were reportedly for profit.

During the year there were a number of deaths either at police hands or at the hands of militia members and criminals wearing police uniforms. For example, on May 5, the bodies of 16 Sunni farmers from Mada'in, detained by men wearing police uniforms, were found in a mass grave near Sadr City, an impoverished Shi'a neighborhood of Baghdad. They had been fatally shot in the head, and the corpses showed signs of torture. MOI officials promised an investigation into the killings, but no results were available at year's end.

On May 15, eyewitnesses said armed men in police uniforms took Sunni Council of Scholars (*Ulema*) member Sheikh Hassan al-Naimi from his Baghdad home. Several days later his body was found with a gunshot wound to the head and signs of torture with an electric drill. The MOI promised to conduct an investigation, but no results had been released by year's end.

On July 12, nine Sunni men suffocated after police locked them for several hours in a vehicle with no air-conditioning. Officials denied intentional wrongdoing, claiming lack of training in operation of the vehicle. No one was punished for this incident.

On August 24, during the early morning hours, men in commando uniforms driving police vehicles took 36 Sunnis from their homes in Baghdad's Al-Huriya neighborhood. The bodies of the men were found the following day near the Iranian border. MOI officials promised an investigation of the incident, but no results had been released at year's end.

There was no new information regarding the MOI investigation into the case of officers in the Basrah Police Internal Affairs Unit who were involved in the December 2004 killings of 10 members of the Ba'th Party and the killings of a mother and daughter accused of engaging in prostitution. Similarly, there was no new information regarding the October 2004 arrest, interrogation, and killing of 12 kidnappers of 3 police officers.

Insurgents and terrorists killed thousands of citizens (see section 1.g.). Using intimidation and violence, they kidnapped and killed government officials and workers, common citizens, party activists participating in the electoral process, civil society activists, members of security forces, and members of the armed forces, as well as foreigners.

Insurgent and terrorist groups also bombed government facilities, mosques, public gathering spots, and businesses resulting in massive losses of life and grave injuries. There were no indications of government involvement in these acts.

Until its fall in 2003, the former regime murdered, tortured, and caused the disappearance of many thousands of persons suspected of or related to persons suspected of opposition politics, economic crimes, military desertion, and a variety of other activities. The 2003 and 2004 discovery of mass graves (defined as unmarked sites containing at least six bodies) provided evidence of the vast dimension of these practices. During the year the location of nine additional mass graves was confirmed, including in Karbala, Nasariyah, and a mass graves complex south of Samawah. The total number of confirmed sites at year's end was 286, and investigators continued to review evidence on additional mass graves.

On March 16, police and medical teams found a mass grave that contained 81 bodies believed to be the remains of Kurds. On April 16, the acting human rights minister announced that 41 bodies had been found in a mass grave in Amarah. The remains were believed to be those of Kuwaitis killed during the first Gulf War, but the Prisoner of War Committee of the Ministry of Human Rights (MOHR) had not confirmed this attribution during the year. Officials had identified through DNA analysis the remains of 322 Kuwaiti citizens in mass graves by year's end.

On December 27, city employees doing maintenance work on an underground sewer in the holy city of Karbala uncovered remains of eight bodies that were part of a mass grave from the early 1990s, when the Ba'thist regime crushed a Shi'a uprising in the South.

Grid coordinates were obtained on at least 10 mass graves in Al-Hatra in Ninewah Province in 2004. Two gravesites were excavated; one site contained the remains of women and children, and the other contained remains of men. Approximately 275 bodies—thought to be Kurds who were killed by the former regime—were found in each site. Search for additional sites in the area was ongoing during the year.

Gravesites were discovered in all regions and contained remains of members of every major religious and ethnic group in the country, as well as of foreigners. Graves contained forensic evidence of atrocities, including signs of torture, decapitated or mutilated corpses, and evidence that some victims were shot in the head at close range.

During the year the MOHR helped relatives learn the fate of their family members under the former regime, including those found in mass graves. The National Center for Missing and Disappeared Persons continued to function, despite a lack of enabling legislation or official status.

*b. Disappearance.*—Criminal and politically motivated disappearances and kidnappings, including those related to the ongoing insurgency, remained a severe problem (see section 1.g.). During the year hundreds, if not thousands, of individuals disappeared without a trace, sometimes at the hands of the police. There were many allegations of police involvement in kidnappings, some of which were supported by evidence. However, since criminals, insurgents, and paramilitaries often wore police uniforms, data on actual police abuses was uncertain.

For example, on September 9, a Sunni businessman was kidnapped from his Baghdad home. Witnesses to the abduction said men in commando uniforms driving police vehicles took him to an undisclosed location. After more than a month of negotiations, the family paid a ransom, and the kidnappers freed the victim, who had been tortured by his captors.

Groups affiliated with Kurdish political parties cooperated with Iraqi security forces to detain Sunni Arabs, Turcomen, and others and hold them in undisclosed

locations in the North (see section 1.d.). Allegedly due to lack of jail space in Kirkuk Province, security forces moved prisoners north to the KRG area without public acknowledgment of the arrests or place of detention.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The TAL expressly prohibits torture in all its forms under all circumstances, as well as cruel, inhuman, or degrading treatment. However, security forces employed such practices. Insurgents and terrorists frequently committed torture and other abuses (see section 1.g.).

The vast majority of human rights abuses reportedly carried out by government agents were attributed to the police. Militias, including members of the Badr Organization and the Mahdi Army, penetrated some police units. The minister of interior was an official in SCIRI, the sponsor of the Badr Organization; the governor of Baghdad was a SCIRI member and a leader in the Badr Organization, as were five other provincial governors selected by their respective Governorate Councils under CPA Order 71. On June 7, President Jalal Talabani praised the Kurdish and Badr militias, calling them necessary to sweep away the remnants of the dictatorship and defeat terrorism. Police officers, some of whom were members of militias, abused official powers and resources, including police vehicles, to pursue personal, criminal, and party agendas (see section 1.g.). Criminals impersonating police officers also carried out illegal acts including kidnapping (see sections 1.a, 1.c., and 1.g.).

According to a January Human Rights Watch (HRW) report, police torture and ill treatment of detainees was commonplace. In interviews with 90 prisoners, 72 asserted that they had been tortured or mistreated. The reported abuses included beatings with cables and hoses, electric shocks to earlobes and genitals, food and water deprivation, and overcrowding in standing-room-only cells.

On February 6, Baktiar Amin, the former minister of human rights, noted to then prime minister Allawi that detention centers under the MOI's control were a "theater of violations of human rights." In addition to poor living conditions and arrests and detentions carried out without judicial orders, the minister stated that the MOI systematically tortured and abused detainees. Specific violations were attributed to personnel of the Major Crimes Unit, the Intelligence Directorate, and local police.

On November 13, an overcrowded MOI detention center in Baghdad was discovered. This facility, the Jadiriya Bunker, held 169 detainees, mostly Sunnis, many of whom showed signs of torture and abuse. A number of the detainees were severely malnourished and said that police had only given them bread to eat for several months. The facility was shut down, and the detainees were subsequently transferred to a Ministry of Justice (MOJ) prison.

In a November 17 press conference, Minister of Interior Baqr Jabr stated that the reports of torture had been exaggerated; however, independent medical examinations of the prisoners revealed that more than 100 showed signs of abuse, although the abuse may have occurred elsewhere than at the bunker. Prime Minister al-Ja'afari responded to the revelations of the bunker case by establishing an Inter-agency Inspection Team (IIT) and announcing a "Six Point Plan" that called for inspections of all detention and prison facilities, investigations of all human rights abuses uncovered, and accountability for those perpetrating abuses.

In December the IIT conducted three unannounced inspections. On December 8, officials investigated a second MOI facility, the Iraqi Police Commando Division Central Facility for Baghdad. This police station building held 625 detainees in conditions so crowded that detainees were unable to lie down at the same time. According to press reports, a government official with first-hand knowledge said that at least 12 prisoners had been subjected to severe torture with electric shock, had fingernails torn out, and suffered broken bones from beatings. Due to the severe abuse, 13 of the detainees were referred for medical care. Sixty prisoners were recommended for immediate release, and 75 were moved to an MOJ detention facility. While no confirmation was available at year's end, detainees claimed that six of their group had died in custody.

Inspections pursuant to Prime Minister al-Ja'afari's plan were also conducted on December 20, at the Ministry of Defense National Intelligence Service central detention facility in Baghdad, and on December 28, at a joint MOI/Ministry of Defense (MOD) facility near Tal Afar.

The IIT assessment of all three sites indicated inadequate living conditions, health services and legal access. At one of the sites IIT found evidence of recent physical abuse and torture. IIT submitted three separate reports with recommendations to the prime minister's office.

In conjunction with the Six Point Plan, all ministries of the national government operating detention facilities were required to submit lists of all facilities. There were reportedly approximately 450 official detention centers; some were operated by the MOI, and some by the MOD. Additionally, there were reports of many unofficial

detention centers throughout the country. The compilation, inspections of MOJ and MOD facilities, and further investigations into the MOI incidents were ongoing at year's end. No information was available on KRG facilities.

Police abuses included threats, intimidation, beatings, and suspension by the arms or legs, as well as the reported use of electric drills and cords, and the application of electric shocks. Reportedly, police threatened or, in fact, sexually abused detainees.

For example, a woman detained in the Diwaniyah police station claimed in early May that police had administered electric shocks to the soles of her feet and threatened to abuse sexually her teenage daughters if she did not provide the information they demanded.

On October 14, Najaf security forces arrested an associate of the former provincial governor and allegedly tortured him in an effort to obtain a confession. The arrested individual reportedly appeared at his court hearing the following day, unable to walk. MOI officials agreed to open an investigation of the case, but no information has been made available. The individual remained in custody at year's end.

According to the MOJ's Iraqi Corrections Service (ICS) officials, prisoners routinely exhibited signs of mistreatment upon transfer from police custody to the prisons. ICS investigated or referred to MOI 14 cases of police abuse during the year, some of which involved torture. For example, officials at Baghdad's Rusafa intake facility reported on February 8 that medical staff treated an inmate for injuries following his transfer from police custody. The inmate said he had been interrogated by police at the Kadamiya police station following arrest on a murder charge. The inmate stated that police severely beat him during the interrogation and told him that he would be killed if he spoke of the abuse. On June 27, a medical examination of a new prisoner at Baghdad's Rusafa intake facility revealed a leg broken in two places. The man told officials that police had broken his leg while he was in their custody.

On October 20, administrators of Baghdad's Kadamiya women's prison confirmed the rape of one inmate had occurred while the individual was in police custody. No further information regarding this case was available at year's end.

Iraqi army abuses also were reported during the year. Information was very sparse, but reported MOD-inflicted beatings and similar abuses of detainees were generally fewer and less severe than the MOI detention center cases. There was no indication that MOD officials took disciplinary action in any cases alleging abuses.

Some detainees in military custody alleged abuse that included hanging inmates upside down until they lost consciousness, beating with wooden and plastic sticks, weapons, and electric cords, and the use of electric shocks and stun guns.

Two men reported that military personnel detained and beat them on May 6 and 11, respectively, in Iskandariyah. On July 7, the Army detained a man in Tikrit, who reported he was blindfolded and his hands and ankles bound before he was hung by a rope from the ceiling. He was beaten with a cable for approximately 10 minutes before being doused with cold water. On July 23, the Army detained another man near Tal Afar, reportedly beating him with an iron pipe for 30 minutes during the interrogation.

Also in July, army officers in Tikrit reportedly blindfolded, handcuffed, and beat a detainee on his head and back with a rifle butt. He was then suspended from the ceiling with bound ankles and struck repeatedly across the legs with a cable. A medical examination confirmed abrasions, swelling, and bruising consistent with the detainee's claims.

In August army officials reportedly detained a man in the Saqlawiyah area, beating him before suspending him from a ceiling fan by his bound ankles.

Kurdish security forces committed abuses against non-Kurdish minorities in the North, including Christians, Shabak, Turcomen, and Arabs. Abuse ranged from threats and intimidation to detention in undisclosed locations without due process (see section 1.d.). Verification or assessment of credibility of claimed torture and abuses by KRG officials was extremely difficult. The press reported that police tortured a Turcoman vegetable seller after he was arrested on March 17 and taken to the Megdad KRG police station.

Insurgents and terrorists, predominantly but not exclusively Sunni, regularly employed multiple forms of torture and inhuman treatment against their victims (see section 1.g.). Beatings, throwing acid on women, execution-style killings, dismemberment, and beheadings were routinely perpetrated against citizens and foreigners.

*Prison and Detention Center Conditions.*—In the government's official civilian penal system, the ICS prisons, conditions significantly improved during the year. Most ICS facilities met most international penal standards, although none met all. However, other detention systems existed about which little was known.

Standards in the KRG facilities were similar to ICS standards. However, according to press reports quoting political leaders and families of detainees, Kurdish political parties employed a network of at least five detention facilities outside the official KRG prison system to incarcerate hundreds of Sunni Arabs, Turcomen, and other minorities abducted and secretly transferred from Mosul and from territories stretching to the Iranian border.

The MOD operated 17 holding areas or detention facilities in Baghdad and at least another 13 nationwide for detainees captured during military raids and operations. Efforts were underway at year's end to integrate detainees in these MOD facilities into the criminal justice system.

Throughout the year ICS officials implemented procedures for the screening of all persons taken into ICS custody from the police, courts, or any other entity as soon as reasonably possible for injuries or signs of abuse. Medical staff examined and documented the results in the person's medical record.

During the year 13 cases of abuse by ICS personnel were reported and investigated. Two of the cases were closed as unfounded, six individuals received administrative punishment, and five cases were pending at year's end.

Overcrowding continued to be a problem. The continuing investigation into overcrowded detention facilities was underway at year's end. Overall detainee numbers increased due to mass arrests carried out during security and military operations. ICS and KRG facilities held approximately 9,900 inmates, including 335 women, with an overall total of approximately 9,700 beds. ICS operated 11 prisons and pretrial detention facilities, and Kurdish authorities operated 7. Renovation and construction on an additional 3 facilities, totaling 4,200 beds, continued at year's end.

It could not be determined whether inmates died during the year due to poor conditions of confinement or lack of medical care. Medical care was poor, reflecting community standards.

The law provides that women and juveniles must be held separately from men; however, reportedly women were held in the same facilities as men in some instances, and juveniles were held with adults. Additionally, pretrial detainees and convicted prisoners were sometimes held in the same facility.

The government generally permitted visits to prisons by independent human rights observers and NGOs; however, some NGOs reported difficulties in gaining access to detention facilities, and presumably there were no visits to undisclosed detention centers.

*d. Arbitrary Arrest or Detention.*—The TAL provides protection against arbitrary arrest and detention except in extreme exigent circumstances. No one may be unlawfully arrested or detained, and no one may be detained by reason of political or religious beliefs. In practice, the authorities in many cases did not observe these provisions.

*Role of the Police and Security Apparatus.*—During the year the MOI exercised its responsibilities throughout the country except for the KRG area. Such responsibilities include providing internal security through police and domestic intelligence capabilities, and regulating all domestic and foreign private security companies. It also has responsibility for emergency response, border enforcement, dignitary protection, firefighting, and facilities protection. The TAL and CPA Order 91 permit KRG to retain control over police forces and internal security. Other CPA memos signed in 2004 recognized a local defense force (*pesh merga*) as legitimate within KRG recognized provincial boundaries.

The MOI commands a number of uniformed forces, including the Iraqi Police Service and the Special Police Forces, numbering more than 20 thousand who received little police training. MOI police effectiveness was seriously compromised by sectarian influences of militias that infiltrated the MOI, corruption, a culture of impunity, lack of training and, in some instances, by intimidation within security force. In the aftermath of the fall of the former regime, a police presence temporarily vanished, except in the Kurdish areas. After April 2003, a large recruitment and training program was established, including hiring former police officers. Reconstituted police units in some cities, particularly Mosul and Fallujah, sometimes disintegrated or fled when faced with large-scale insurgent attacks.

More than a dozen militias have been documented in the country. Militia members integrated into the Iraqi Security Forces (ISF) typically remained within pre-existing organizational structures and retained their original loyalties or affiliations. Of these integrated militias only the Badr Organization and the *pesh merga* of the Kurdistan Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK) remained significant, cohesive entities at the end of the year, although they were nominally integrated. *Pesh merga* units were embedded in the MOD but were rarely used outside the KRG. Six sponsor organizations either disbanded their militias or



assigned them to personal security duties for political leadership. The Mahdi Army remained a separate and freestanding militia.

Efforts to increase the capacity and effectiveness of the police were ongoing. In the human rights area, 17 percent of the 135 thousand-member police force received an average of 22 hours of human rights instruction during the year, bringing the total of police trained to 64 percent of the police force by year's end. Also, all ICS personnel were required to undergo training at a five-week basic corrections academy. This training, including instruction on basic human rights, was mandatory for the 5,800 ICS correctional officers. As of year's end, approximately 58 percent had received such training.

Human rights offices responsible for investigating allegations of police abuse were established in all governorates; however, there was insufficient information to determine their effectiveness.

Corruption was widely perceived to be a severe problem within the police. There were many allegations of police abuse involving unlawful arrests, beatings, and theft from the homes of detainees. MOI's inspector general (IG) investigated reports of corruption, tried to educate MOI personnel about the danger of corruption and to develop a culture of transparency, and worked on human rights issues in any venue that affected MOI. The IG reported that it investigated 650 cases of police corruption and more than 40 allegations of human rights abuses during the year. Results were not publicized by year's end.

Within the MOI, the Internal Affairs Department is the designated mechanism for investigating internal police abuses. It brought forward several cases of corruption and abuse. The Minister fired all the accused, many of whom have been remanded for trial. At year's end no trials had taken place.

In the IG's office, a hot line existed for citizens to report cases of corruption and abuse, in addition to mentoring and training programs that focused on accountability. A code of police conduct also exists.

*Arrest and Detention.*—Under the emergency law, the prime minister has a wide array of powers, including the authority to detain and search suspects. The law provides that all such actions must be pursuant to an arrest or search warrant unless there are "extreme exigent circumstances," and detained suspects must appear before a judge within 24 hours of arrest. If the investigative judge finds a basis on which to press charges, the prisoner remains confined and is transported to an ICS detention facility to await trial (see sections 1.a. and 1.c.).

Pursuant to the 1971 Criminal Procedure Code, the judge who issues an arrest warrant sets the bond conditions. If no conditions of release are specified, the accused is kept in custody. Under the most common bond condition, an accused is released into the custody of a responsible individual (such as a family member or tribal leader), who will vouch for the individual's appearance at a future court hearing.

Judges are authorized to appoint paid counsel for the indigent, and did so, according to observers of proceedings in the Central Criminal Court in Baghdad. Attorneys were provided with private rooms during official visits to confer with their clients.

Criminal detainees generally were informed of the charges against them, although sometimes with delay. Criminal detainees were generally retained in custody pending the outcome of a criminal investigation. Authorities stated that police generally arrested individuals in accordance with a duly issued warrant; however, police frequently arrested and held in detention without the necessary judicial approval individuals who had not been accused of any crime. Security sweeps sometimes were conducted throughout entire neighborhoods, and numerous people were arrested without a warrant or probable cause. Police often failed to notify family members of the arrest or location of detention.

According to the government, ICS generally imprisoned civilians under the rule of law, accompanied by a valid confinement order from a judge. Although some MOI detainees were processed judicially, some were detained without having been brought into the judicial system. In practice ministries acting outside the scope of their legal authority detained numerous individuals and enabled many other serious abuses. For example, some of those held in MOI facilities uncovered on November 13 and December 8 lacked any judicial paperwork.

Lengthy pretrial detentions continued to be a significant problem. These resulted from backlogs in the judiciary, slow processing of criminal investigations and, most seriously, undocumented detentions. Many prisoners, some undocumented, were held incommunicado for extended periods (see section 1.c.). Reportedly, police continued to use coerced confessions and abuse as methods of investigation. Hundreds of cases alleging police abuse and torture were pending throughout the country at year's end.

Information was not available on MOD or KRG practices.

On March 29, according to the press, the Higher Judicial Council accused the MOI of violating the state of emergency law on warrantless arrest and detention by relying on an internal MOI directive authorizing the practice in nonexigent circumstances (see section 1.e.).

Police or criminal impersonators in police uniforms sometimes made false arrests to extort money. Some police officers did not present defendants to magistrates but held them in detention cells until their families paid bribes for their release. In the Central Criminal Court of Iraq (CCCI) in Baghdad, the time between arrest and arraignment often exceeded 30 days, despite the 24-hour requirement.

Kurdish security forces abuse ranged from threats and intimidation to detention in undisclosed locations without due process (see section 1.c.). Police detained and took more than 130 individuals from Kirkuk to KRG territory during the year.

There were no publicized cases of criminal proceedings brought against members of the police in connection with alleged violations of human rights. MOI authorities claimed that there were several arrests of police and both criminal and administrative punishments in cases where allegations of torture were substantiated; no specific cases were identified by year's end.

*e. Denial of Fair Public Trial.*—The TAL provides for an independent judiciary. While there was not sufficient experience to determine, in practice, its independence, the judiciary was vulnerable to intimidation and violence and to the exercise of political influence.

*Trial Procedures.*—According to the TAL, all persons are equal before the courts and no individual may be deprived of life or liberty except in accordance with legal procedures

The TAL provides for the right to a fair trial, and the judiciary generally sought to enforce this right. An accused is innocent until proven guilty pursuant to the law and has the right to engage independent and competent counsel, remain silent in response to questions, and summon and examine witnesses or ask that a judge do so.

The criminal justice system is based on a civil system similar to that of France (Code Napoleon). It was modified under the Ottoman Turks and greatly influenced by the Egyptian system. The system is inquisitorial; the judiciary controls and investigates cases. Tribal leaders applied Shari'a (Islamic law) in settling disputes.

The courts are geographically organized into 17 appellate districts. There are two types of criminal courts—misdemeanor and felony. Cases are presented to the court in the district where the crime took place. An investigative judge controls the investigation and recommends charges if sufficient evidence has been discovered. Trial and sentencing are generally very short processes. Witnesses who are not present have their statements read into the record.

There is no jury in the criminal justice system, and a three-judge panel decides on the guilt or innocence of a defendant. Defendants who are found guilty are sentenced immediately after the verdict. Prosecutors and defense counsel may question witnesses during the proceeding. In practice they often asked few, if any, questions after the judge had completed his questioning. The prosecutors and defense counsel routinely made initial and final statements to the court. Decisions can be appealed to an appellate court and then to the Court of Cassation, which is the court of last resort in most matters concerning federal law.

On February 24, the government, pursuant to the TAL and its Annex, enacted the Supreme Federal Court Law to establish the Supreme Court. The Presidency Council approved the Supreme Court's members; however, no cases were heard by year's end. While the Court of Cassation is the court of last resort for most matters concerning the enforcement of federal law, the Supreme Court has original and exclusive jurisdiction in conflicts between federal and other authorities and in claims that a law is inconsistent with the TAL. An appellate jurisdiction for the Federal Supreme Court remained to be defined.

The Higher Juridical Council (HJC), headed by the Chief Judge of the Supreme Court, is responsible for all administrative matters relating to the courts. The chief appellate judge of each district, along with several judges from the Court of Cassation, comprises the HJC.

In the event of judicial misconduct, the HJC convenes a disciplinary hearing to determine the merits of the allegations. Unlike in 2004, there were no reported cases of judicial misconduct during the year. In 2004 the HJC convened a disciplinary hearing concerning the allegation that a Baghdad judge dismissed criminal cases due to external influence. After a six-month investigation, the judge was removed from office due to concerns about his integrity. There was no evidence of outside influence on the HJC.

In late March the HJC reportedly challenged the MOI's practices in cases of arbitrary detention, without consequent change in MOI operations (see section 1.d.).

On a number of occasions, the HJC challenged the failure of the MOI to produce prisoners in court before an investigative judge for timely review of the basis for arrest and continued detention. These problems did not exist for detainees held in regular police stations. However, because the Special Police tended to detain large numbers of individuals without bringing them before a judge, the HJC arranged to have an investigative judge periodically go to the detention facility of some Special Police units and review the status of detainees there. The HJC also arranged similar visits to review cases at some other centralized MOI detention facilities. The results of this HJC-directed effort were mixed. Sometimes Special Police units did not cooperate; at times the prisoners simply were not presented to the judge. In two cases, investigative judges were allegedly involved in or ignored misconduct by MOI units. To address misconduct by MOI units, the HJC had only the authority to bring criminal charges; otherwise, discipline was an internal MOI matter. During the year the HJC did not bring criminal charges in these matters.

In 2003 the Governing Council created the Iraqi High Tribunal (IHT), formerly the Iraqi Special Tribunal, to try persons accused of committing war crimes, genocide, crimes against humanity, and specified offenses under Iraqi law from July 17, 1968, through May 1, 2003. The Dujayl trial, the first in what was expected to be a series of trials of Saddam Hussein and other defendants began on October 19. The trial was based on an incident in 1982 when army deserters shot at Saddam Hussein's convoy as it passed through the Shi'a farming town of Al-Dujayl. The charges alleged that Saddam, in retaliation, ordered the Intelligence Service to arrest more than 550 Dujayl men, women, and children who were subsequently imprisoned, tortured, and had their farmlands destroyed. Saddam allegedly ordered 148 men and teenage boys, after 5 years of continuous persecution, executed by hanging. At year's end the trial was ongoing.

Violence and intimidation harmed members of the judiciary, including defense lawyers. Unknown assailants shot and killed secretary to the HJC Qais al-Shamari and his son in an ambush on January 25. The Army of the Protectors of the Faith (*Ansar AlSunna*) claimed responsibility for the murders. On March 2, gunmen killed IHT judge Barawiz Mahmud and his son as they left their Baghdad home. In early September, three judges riding in one vehicle in Salah Ad Din were stopped and taken to a secret location for a mock trial. They were told to resign their judgeships, and did so.

Armed gunmen abducted Sa'adoun Sughaiyer al-Janabi, a defense counsel in the Dujayl trial from his Baghdad office on October 19. On October 20, al-Janabi was found dead, shot execution-style. No further information was available regarding this case at year's end. On November 8, armed assailants shot and killed Adil al-Zubeidi, wounding Thamer al-Khuzahie in the attack; both were lawyers for co-defendants in Saddam's trial.

The law provides that civilian judges be designated to sit as a separate military court for members of the military. Although 20 judges were so designated, no military trials occurred during the year.

*Political Prisoners.*—There were no reports that the national government held political prisoners.

On October 27, members of *Parastin*, the security intelligence service of the KDP, in Irbil arrested and detained incommunicado international political activist, Kamal Said Kadir, an Iraqi Kurd with Austrian citizenship. According to several international NGOs, he was believed to be held for having written articles on the Internet critical of the KDP authorities, including its leader and KRG President Mas'ud Barzani. Kurdish officials said the arrest was based on a number of lawsuits by civilians. According to the NGO International PEN, the KDP International Relations Bureau in London confirmed that he was being investigated for "slander, personal harassment and threats" in connection with the publication of articles the Kurdish authorities considered to be provocative and defamatory of "certain prominent elected official politicians." The KRG denied any political motivation. On December 19, Said Kadir was sentenced to 30 years' imprisonment.

*Property Restitution.*—The Iraq Property Claims Commission (IPCC) was established in 2004 by CPA Regulation 12 as an independent governmental commission designed to resolve claims for real property that was confiscated, forcibly acquired, or otherwise taken for less than fair value by the former regime between July 17, 1968, and April 9, 2003, for reasons other than land reform or lawfully applied eminent domain, and between March 18, 2003, and June 30, 2005 by persons whose property was taken for ethnic or religious reasons or by individuals whose property had previously been confiscated by the former regime. The statute establishing the

IPCC was amended in July to extend the time limit for the filing of claims until June 30, 2007, which was expected to benefit primarily out-of-country claimants who had not yet heard about the claims process.

There were approximately 1,200 IPCC employees in offices located in all 18 governorates and led by Ahmed al-Barrak, a former member of the Iraqi Governing Council, who replaced Suhail al-Hashimi in July as the head of the national secretariat.

At year-end, the IPCC had received nearly 130 thousand claims nationwide. Of those claims, its regional commissions have adjudicated only approximately 14 percent nationwide, with geographic variations.

There was no information that claimants had yet received compensation through the IPCC. The government budget for 2006 included \$200 million (300 trillion dinars) to fund compensation awards in IPCC cases. However, by the end of the year the government had not established a mechanism to transfer funds to successful claimants. After adjudication, the IPCC's only role in enforcement is to send an official letter to the real estate registry office ordering transfer of title in appropriate cases.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The TAL prohibits such actions, and the government attempted to respect these prohibitions in practice, although in numerous instances, the security forces did not. The law provides for the right to privacy; police, investigators, or other governmental authorities may not violate the sanctity of private residences without a search warrant issued in accordance with the applicable law unless “extreme exigent circumstances” exist. Under the emergency law, the prime minister may authorize authorities to detain and search suspects, and their homes and work places. The law provides that all such actions must be pursuant to an arrest or search warrant unless there are extreme exigent circumstances, and detained suspects must appear before a judge within 24 hours of arrest. The police were instructed to comply with legal warrant requirements but reportedly often did not.

Party membership was necessary to obtain some employment and educational opportunities, particularly in the Kurdish North where the dominant parties were the KDP and PUK (see section 3).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—During the year unsettled conditions prevented effective governance in areas of the country, and insurgent and terrorist attacks hampered the government's human rights performance.

Elements of the Iraqi Armed Forces under the tactical control of the Multi-National Coalition Force (MNF-I) operated in the country in major military actions against insurgents and terrorists under unified command pursuant to UN Security Council Resolutions 1511, 1546, and 1637. MOI forces also coordinated with MNF-I to ensure a synchronized approach to security within the country.

Government military and police forces under government control killed armed fighters or persons planning or carrying out violence against civilian or military targets; according to personal accounts and numerous press reports, these forces caused inadvertent civilian deaths. Treatment of detainees under government authority was deficient in some cases, including killing, torture, and other cruel, inhuman, or degrading abuse (see particularly sections 1.a. and 1.c.). Investigations with respect to these abuses covering all government-controlled detention centers were underway at year's end.

Former regime elements, local and foreign fighters, and terrorists waged guerrilla warfare and a terrorist campaign of violence impacting every aspect of life. Killings, kidnappings, torture, and intimidation were fueled by political grievances and ethnic and religious tensions and were supported by parts of the population.

Insurgents and terrorists targeted anyone whose death or disappearance would advance their cause and, particularly, anyone suspected of being connected to government-affiliated security forces.

Bombings, executions, killings, kidnappings, shootings, and intimidation were a daily occurrence throughout all regions and sectors of society. An illustrative list of these attacks, even a highly selective one, could scarcely reflect the broad dimension of the violence.

Terrorists, insurgents and reportedly militia members frequently targeted government officials. On April 21, the director of the Baddush prison, Colonel Khaled Najim Abdullah, was shot and killed in Mosul. On April 27, gunmen shot TNA member Lamia Abed Khadawi, the first member of the newly elected assembly to be killed. On May 16, Ministry of Foreign Affairs Director General Jassim Mohammad Gharak was shot and killed by unknown assailants at his home. On May 23, in Baghdad's Mansour neighborhood, gunmen shot and killed Head of Operations

for the Minister of State for National Security Affairs General Wa'il al-Rubaie. On July 19, in the Karadah area of Baghdad, Sunni Arab Constitution Committee member Mijbil Issa was killed in a drive-by shooting, as well as two of his bodyguards. In addition to these cases, many other political activists and ordinary civilians were also wounded and killed.

Bombings took thousands of civilian lives across the country during the year. For instance, on February 28 a suicide bomber drove into a crowd outside a government health center, killing approximately 125 and injuring at least 130. A suicide bomber blew himself up in a crowd of police volunteers in the northern city of Irbil on May 4, killing approximately 45 and wounding more than 90.

On September 14, more than 180 people were killed in a series of attacks in Baghdad, including a car bomb attack on a group of workers in a mainly Shi'a district. Al-Qa'ida in Iraq claimed responsibility. Its leader, Abu Musab al-Zarqawi, a Jordanian-born Sunni, focused hostilities on the Shi'a population. On October 11, a suicide bomber drove his explosives-packed vehicle into a crowded outdoor market in Tal Afar, killing at least 30 and wounding 45. Al-Qa'ida claimed responsibility for the attack. The following day, a suicide bomber detonated the explosives hidden beneath his clothing at an army recruiting center in Baghdad, killing at least 30 and wounding 35.

All sectors of society suffered from the continued wave of kidnappings. Kidnappers often killed their victims despite the payment of ransom. The widespread nature of this phenomenon precluded reliable statistics.

Unknown assailants seized Egyptian Ambassador Ihab al-Sherif from a Baghdad street on July 2 and later killed him. Algerian diplomats Ali Belaroussi and Azzeddine Belkadi were kidnapped as they left the Algerian Embassy. Al-Qa'ida of the Jihad Organization in the Land of Two Rivers claimed responsibility for the kidnapping and subsequent murder of the two diplomats. Five members of Baghdad's St. George's Anglican Church disappeared in mid-September while returning from a conference in Jordan. There was no information about their whereabouts at year's end.

Press reports indicated that insurgents often used children as informers and messengers and in diversionary tactics to distract security forces troops. Children sometimes participated directly in attacks, as well (see section 5).

Throughout the year terrorists systematically damaged and destroyed key infrastructure. Principally, but not exclusively in the central region of the country, sabotage to oil, electricity, and transportation lines reduced the movement and availability of critical services and goods to the population.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The TAL broadly protects the right of free expression. CPA Order 14, as amended by CPA Order 100, restricts media organizations from incitement to violence and civil disorder, expressing support for the banned Ba'th Party and support for "alterations to Iraq's borders by violent means." Government actions based on the order must be consistent with the TAL and the country's obligations under international law and are appealable within the judicial system.

Media organizations determined to be in violation of the CPA orders are subject to closure, possible imprisonment of persons involved in the violation, and a fine of up to \$1 thousand (1.5 million dinars). No media organizations in the country were closed during the year. The Iraqi Association of Journalists asserted that journalists were censored and had been accused of collaboration with the insurgents after trying to report on both sides of the conflict. There was no government censorship office.

Licensing procedures are transparent and an independent entity was established to license broadcast media, although the process has lapsed in the face of other priorities. The press does not require a license to operate.

The independent media were active and diverse. There were several hundred daily and weekly publications, as well as dozens of radio and television stations at the national, regional, and local levels, broadcasting in Arabic, Kurdish (two dialects), Turcoman, and Syriac. The media represented a very wide range of viewpoints. Columnists openly criticized the government in print media, and government officials responded to viewer call-ins on television programs. Election programs featured live debates among candidates.

Public media (one each for TV, radio, and newspaper) launched by the CPA were incorporated into a new publicly funded broadcaster, the Iraqi Media Network.

Much of the media was owned by political party groups or coalitions of political, ethnic and religious groups. Despite the enabling legal framework, the lack of independent commercial financing resulted in many media outlets being the voices of

and financially dependent upon political parties and other groups. For private media, sales and advertising revenues typically did not produce a reliable income stream, and lack of a constant power supply was often a problem.

The most widely watched television stations were independent Al-Sharqiya and public broadcaster Al-Iraqiya, along with Arabic-language satellite channels operating outside the country, such as Al-Arabiya and Al-Jazeera. Several other new outlets were gaining popularity, such as entertainment channel Al-Sumeria.

Foreign journalists generally operated without legal or bureaucratic hindrance. However, the August 2004 ban continued on the Qatar-based Al-Jazeera news channel, based on an Iraqi Communication and Media Commission report accusing the station of inciting violence and hatred. The station continued to employ free-lance journalists in the country and also bought reports and footage about the country from other satellite networks.

There were no restrictions on access to printed material or electronic media, equipment, or services. Foreign news broadcasts were not jammed.

According to the Committee to Protect Journalists, assailants killed or abducted at least 23 journalists and media assistants during the year. For example, gunmen shot and killed journalist Shamal Abdallah Assad on April 15, as he was driving on Kirkuk's main street.

In early July unknown assailants kidnapped Mosul television producer Khaled Sabih al-Attar. He was found shot and killed in an empty lot several hours after his abduction. According to the NGO Reporters Without Borders, two armed men shot and killed Firas al-Madhidi on September 21 outside of his home. Men in police uniforms shot and killed al-Madhidi's co-worker, Hind Ismail, the previous day. On October 23, there were no reported fatalities among the media when three car bombs exploded in Baghdad near the Palestine and Sheraton hotels, which housed many foreign journalists.

Self-censorship took place due to a climate of fear of violence. On August 13, Al-Hurra television aired a program about the March incident at Basrah University in which Sadrists violently broke up a picnic and beat students for "un-Islamic" behavior (see section 2.c.). Following the program, unidentified Sadrists kidnapped one Al-Hurra employee and threatened to kill the entire Basrah office's staff. The office remained closed at year's end, and the employees were in hiding.

There were no government restrictions on the Internet or academic freedom. However, Kurdish parties in the North and Shi'a-dominated parties in the South controlled the pursuit of formal education and the granting of academic positions.

*b. Freedom of Peaceful Assembly and Association.*—Freedoms of assembly and association are guaranteed by the TAL. Under the emergency law, the prime minister has the authority to restrict freedom of movement and assembly pursuant to a warrant or extreme exigent circumstances.

Many demonstrations took place countrywide on sensitive issues concerning government decisions or lack of government capacity to address problems, although not on subjects prohibited under the anti-Ba'th orders inherited from the CPA. Police generally did not break up peaceful demonstrations except when a curfew was violated.

However, the police used coercion at times. For example, on March 27, dozens of demonstrators entered the Ministry of Science and Technology, demanding higher wages. Shots were fired during the demonstration, resulting in minor injuries to seven individuals, after which the crowd quickly dispersed. The minister of interior warned citizens the following day not to hold protests, saying such gatherings invited large-scale terrorist attacks.

In the streets of Najaf in early June police physically assaulted and detained students for wearing jeans and having long hair. The students said police beat them and shaved their heads.

In January Kurdish militia in Bartalah reportedly broke up a peaceful demonstration by Shabak villagers, assaulting several demonstrators and firing their weapons over the crowd.

*c. Freedom of Religion.*—The TAL provides for freedom of thought, conscience, and religious belief and practice. While the government endorsed these rights, its efforts to prevent or remedy violations were hampered by substantial politically and religiously driven violence between Sunni and Shi'a (see section 1.g.) and by harassment of Christians. Deficiencies in security force capabilities and in the rule of law made it difficult for the justice system to investigate or address violations of these rights. Amid hostility and acts of terrorism against citizens of different faiths and their places of worship, religious leaders repeatedly called for tolerance.

Government leaders spoke often of the need for all citizens to unite—regardless of religious orientation—in the face of terrorism and repeatedly emphasized their

commitment to equal treatment for all religions and ethnicities. Prime Minister Al-Ja'afari frequently expressed his concern over implications of the government's possible involvement in violence against the Sunni Arab minority. The MOI undertook to investigate alleged police involvement in the unlawful detention, torture, and murder of Sunnis, but no results were released during the year.

Religious groups are required to register with the government. According to the Christian and Other Religions Endowment Office, approximately 18 foreign missionaries applied during the year to operate in the country. After learning of the registration requirements, which include having at least 500 followers in the country, none of the organizations returned to complete the registration process.

An estimated 97 percent of the population is Muslim. Shi'a Muslims—predominantly Arab, but also including Turcomen, Faily Kurds, and other ethnic groups—constitute 60 to 65 percent of the population. Sunni Muslims make up 32 to 37 percent of the population (approximately 18 to 20 percent are Sunni Kurds, 12 to 16 percent Sunni Arabs, and the remainder Sunni Turcomen). The remaining approximately 3 percent consist of Christians—Chaldean (an eastern rite of the Catholic church), Assyrian (Church of the East), Syriac (Eastern Orthodox), Armenian (Roman Catholic and Eastern Orthodox), and Protestant Christians, as well as small numbers of Yazidi, Sabean (Mandaean), Baha'i, Kaka'i, Ahl-e-Haqq, and a very minute Jewish community.

Shi'a Arabs, although predominantly located in the South, are also a majority in Baghdad and have communities in most parts of the country. Sunni form the majority in the center (Arabs) of the country and in the North (Kurds). Shi'a and Sunni Arabs are not ethnically distinct.

According to official estimates, the number of Christians in the country decreased from 1.4 million in 1987 to approximately 750 thousand during the year, with Catholics comprising the majority. According to church leaders in Irbil and Mosul, Christians in the North account for roughly 30 percent of the country's Christian population. Christian religious leaders estimate that approximately 700 thousand Iraqi Christians live abroad.

The ongoing insurgency significantly harmed the ability of all religions to practice their faith. Additionally, sectarian misappropriation of official authority within the security apparatus harmed the rule of law and the right of citizens to worship freely. The Sunni Arab community often cited police raids of its mosques and religious sites as an example of targeting by the Shi'a-dominated government.

On May 19, for example, security forces raided Baghdad's prominent Sunni Abu Hanifa Mosque as Friday prayers were ending, reportedly to detain alleged terrorists. Local leaders complained that security forces used tear gas and abused women. The prime minister subsequently provided compensation for damages to the Sunni religious endowment office and promised a full investigation of the incident.

On June 9, police broke into Amarra's Sunni Hetteen Mosque in southern Iraq charging that it harbored terrorists. Subsequently, the police turned the mosque over to the Shi'a Endowment Office, which changed its name to Fatima Al Zahraa mosque.

The police—particularly the Special Police—abducted, detained, and tortured individuals. According to a variety of reports, police engaged in extrajudicial killings, particularly of members of the Sunni Arab minority. In many instances of alleged police abuse, it was impossible to confirm that all the perpetrators were in fact police officers because of instances of impersonation of police officials (see section 1.a.).

There were allegations of religiously based employment discrimination. Several ministries, including those of health and communications, reportedly conducted large-scale firings of non-Shi'a employees, often on the grounds that the fired employees were senior Ba'thists, security risks, or both (see section 3). Some non-Muslims accused the government of discrimination in hiring, claiming that unqualified Shi'a applicants were hired over qualified non-Muslims. The municipal administration of the city of Basrah allegedly refused to employ Christians.

There were allegations that the KRG engaged in discriminatory behavior against religious minorities. Minorities living in areas north of Mosul asserted that the KRG confiscated their property—including the properties of Christians—without compensation and that the KRG began building Kurdish settlements. Assyrian Christians also alleged that the KDP-dominated judiciary routinely discriminated against non-Muslims and legal judgments in their favor were not enforced. In spite of alleged KRG discrimination against religious minorities, many non-Muslim minorities fled to Kurdish region from the more bellicose center and religiously repressive South of the country.

During the year members of Catholic, Assyrian, and Armenian Orthodox churches as well as clerics left Shi'a-dominated Basrah because of religious, social, and eco-

conomic discrimination and because of fears for their lives due to the unstable security situation for Christians.

*Societal Abuses and Discrimination.*—Extremists, including terrorist groups and militia members, targeted many individuals because of their religious orientation, and very conservative elements of society targeted others because of their secular leanings. Many also were victims of the general lawlessness that permitted insurgents and criminal gangs, as well as those in police uniform to victimize citizens with impunity. In addition to kidnapping, individuals were the victims of harassment, intimidation, and murder. Some Christians in Basrah reportedly were forced to pay protection for their personal welfare. Women and girls reportedly often were threatened for not wearing the traditional headscarf (*hijab*), assaulted with acid for noncompliance, and sometimes killed for refusing to cover their heads or for wearing western-style clothing. Some women were reportedly denied employment and educational opportunities because they were non-Muslim or did not present themselves as sufficiently conservative.

Students generally were not prohibited from practicing their faith in school. However, members of non-Muslim minorities and secular Arabs in some schools were increasingly forced, often under the threat of violence, to adhere to conservative Islamic practices. During the year Basrah's education director instituted a policy requiring all females in the schools to cover their heads. Additionally, all female university students in Mosul, including non-Muslims, were required to wear the hijab.

On March 15, Muqtada al-Sadr loyalists attacked picnicking Basrah University students, claiming they were violating the principles of Islam with their western-style clothing, and by singing, and dancing. The Sadrists fired guns at the students and beat them with sticks. Police were also present during the incident but did not intervene. University officials reported that at least 15 students were hospitalized, many with serious injuries (see section 2.a.).

An upsurge in sectarian violence occurred in early May. Foreign jihadists were reportedly responsible for killing Sunni and Shi'a clerics seeking to incite further sectarian violence. Terrorists attacked mosques, and Sunni and Shi'a neighborhoods. They killed clerics, religious leaders, and private citizens of both sects.

On May 14, the bodies of 10 Shi'a soldiers were found in Ramadi in the largely Sunni Al-Anbar Province. Thirteen blindfolded and bound men, thought to be Sunni, were found shot to death on May 15 in Baghdad in the same Shi'a district where the bodies of 14 Sunni had been found the previous week. On the same day, 11 bodies were found at another Baghdad location, and another 11, reported to be those of Shi'a ambushed by Sunni gunmen, were discovered south of Baghdad.

On May 20, the Imam of Baghdad's Al Hamza Mosque, Sheikh Ayad Khalid Mohammed al Samaraie, disappeared. His body was subsequently discovered in Baghdad's Al-Shoa'ala neighborhood. Samaraie had been shot in the head, and his body showed signs of torture.

According to the Sunni and Shi'a religious endowment offices, approximately 50 Shi'a and 15 Sunni mosques were bombed during the year. On June 4, a suicide bomber blew himself up killing 10 and wounding 12 Sunnis in a religious meeting in a house in Balad, about 50 miles north of Baghdad.

A suicide bomber, thought to be targeting Shi'a citizens, detonated explosives at an outdoor market in Baghdad on November 3, killing approximately 20 and wounding at least 60. Many women and children were among the dead and wounded. Another attack on July 16 at the same spot, which is near a Shi'a mosque, left at least 54 people dead. In that attack, a suicide bomber set off the explosives strapped to his body near a gas station. The resulting explosion also wounded at least 82.

Islamist militants harassed shopkeepers for providing goods or services considered to be inconsistent with Islam and sometimes killed them for failing to comply with warnings to stop such activity. On May 11, leaflets were distributed in Yousifiya forbidding the sale of cigarettes and cautioning barbers not to cut hair in the modern styles or use thread to remove facial hair and produce smoother facial skin.

Religious motivations apparently were the motivation of Islamic extremists' attacks on liquor store owners, primarily Christians and Yazidi. Liquor stores in Baghdad, Mosul, and Basrah were bombed, looted, and defaced, and the Christian and Other Religions Endowment Office reported that approximately 95 percent of such establishments closed due to threats by Islamic extremists.

While Sabeen leaders stated that criminals targeted their community for its perceived wealth, Islamic extremists threatened, kidnapped, and killed Sabeans for refusing to convert to Islam.

On January 16, Riyadh Radhi Habib, president of the Mandaean Supreme Spiritual Council in Basrah, died after being shot more than 90 times by 3 gunmen reportedly demanding that he convert to Islam. On February 15, armed men confronted Wafsi Majid Kashkul at his Baghdad jewelry store and reportedly demanded



that he convert to Islam. When Kashkul refused, the men shot him and left without stealing anything from the shop. On March 14, it was reported that three Sabean brothers, Anweer, Shaukai, and Amer Juhily, were kidnapped from their Basrah home. The kidnappers demanded that the brothers convert to Islam; they refused and were shot and killed.

There were no reported examples of anti-Semitic actions against Jewish citizens. According to the head of the Christian and Other Religions Endowment Office, the country's millennia-old Jewish population had dwindled to only 20 persons in the Baghdad area. There were also unverified reports of small numbers of Jews living in KRG areas.

However, anti-Semitic sentiment remained a cultural undercurrent. As an example, the TNA passed a citizenship law on November 15 that, among other things, precludes Iraqi Jews from regaining citizenship. The Presidency Council (the president and the two deputy presidents) sent a notice to the TNA that it was vetoing this legislation, but the TNA challenged the legal effectiveness of the notice. As a result of this dispute, the law was not in effect at year's end.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The TAL guarantees the right of free movement in all parts of the country and the right to travel abroad and return freely; however, there were some limitations in practice. Under the state of emergency law, the prime minister can restrict movement pursuant to a warrant, impose a curfew, cordon off and search an area, and take other necessary security and military measures (in Kurdish areas, only in coordination with the KRG). The government availed itself of these powers in practice in the course of the conflict.

Beginning in May and continuing until at least mid-July, the KRG arbitrarily controlled internal borders between the KRG and the rest of the country. On numerous occasions, the KRG, denied entry on the basis of ethnic background, gender, and age. Security forces sometimes detained individuals for up to 14 hours and prohibited them from making outside contact, or turned them away at the checkpoint because Arabs were not allowed into the Kurdistan Region. KRG authorities asserted they were acting judiciously in controlling travel by individuals or groups entering Kurdistan from less secure parts of the country. In July the MOI ordered KRG authorities to cease such activity. No cases were reported after the order was issued.

The TAL expressly prohibits forced exile of all native-born citizens and, unless a judicial decision establishes that the naturalized citizen was granted citizenship on the basis of material falsifications, naturalized citizens. Forced exile did not occur.

There were no known government restrictions on emigration. Exit permits were required for citizens leaving the country, but the requirement was not enforced. Despite legislation to the contrary, some authorities continued to require that women between the ages of 12 and 40 obtain the approval of a close male relative before being issued a passport. Government officials denied that there was a policy to this effect.

*Internally Displaced Persons (IDPs).*—In October the UN High Commissioner for Refugees (UNHCR) estimated that there were more than 1.2 IDPs in the country. The former regime was responsible for the displacement of more than a million persons. By April more than 470,000 persons were estimated to have returned to their places of origin, habitual places of residence, or other places of their choice. In June operations related to the ongoing military conflict resulted in the new displacement of approximately 40 thousand persons in the Western Euphrates River Valley and 20 to 40 thousand persons from the predominantly Turcoman city of Tal Afar in Ninewah Province near the Syrian border. By the end of September, most of the IDPs from Tal Afar had returned to the city, but those from the Western Euphrates River Valley had not returned to their homes.

During the Saddam era, both ethnic Arabs and non-Arabs were forced or induced to move to other regions of the country. The vast majority of IDPs were non-Arabs (Kurds, Chaldo-Assyrians, and Turcomen) forcibly relocated southward as part of the regime's "Arabization" process to make way for incoming Arab families forced or induced to settle around Kirkuk and other northern areas.

Many Arabs who were part of this Arabization process either fled their homes in the North during the 2003 war or were forced out or prevented from returning by Kurdish civilians and fighters who had returned to villages from which they had originally been displaced.

Frustrated by the slow resolution of property disputes, the main Kurdish political parties encouraged and supported resettlement of Kurdish IDPs in Kirkuk outside the framework of the IPCC (see section 1.e.). Meanwhile, Arabs remained, especially

in Kirkuk, in antagonistic and extremely poor conditions, facing pressure from Kurdish authorities to leave the province.

Due to poor security conditions and inadequate social infrastructure to absorb returnees, the Ministry for Displacement and Migration (MODM) continued to support a ban on the forced return of Iraqi citizens to the country from abroad. The United Kingdom involuntarily returned 15 citizens to Irbil on November 21, and other countries were considering whether to follow suit. Additionally, there was a housing shortage estimated at between 1.4 and 2 million units in the country. There were also inadequate education and health care facilities for the current displaced and refugee population. The MODM, however, continued to support the principles of voluntary repatriation and underscored the importance of safe and dignified returns.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum. However, the government recognized a refugee population of an estimated 65 thousand persons.

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

During the year refugees were targeted in attacks carried out by insurgents, security forces, and members of the general public. Protection for Palestinian and Syrian refugees continued to deteriorate. There were credible reports that police and individuals pretending to be police targeted Palestinians for arbitrary arrest, detention, and house raids. There was a wave of increased abuse of Palestinian refugees by the security forces and the general public following the May 12 bombing in Baghdad's Al-Jadida neighborhood after media reports attributed the violence to the Palestinians. Groups not affiliated with the government also reportedly threatened the physical safety of refugees from groups that the previous regime favored (Palestinians, Syrian Ba'thists, and Ahwazis).

Iranian Kurds in the Al Tash Camp near Ramadi in Al-Anbar and Turkish Kurds in the Makhmour Camp in Ninewah became increasingly vulnerable due to the deteriorating infrastructure and security in both locations. Groups not affiliated with the government harassed, threatened, and abused residents of both camps.

UNHCR provided protection and assistance to both Syrian and Palestinian refugees through rental subsidies, other forms of material assistance, and legal representation. As of November 1, UNHCR did not have any international staff based in the country; therefore, it was unable to conduct refugee status determinations to assess the claims of asylum seekers and evaluate possible durable solutions for those recognized as refugees.

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

The TAL provides citizens the right to change their government peacefully through periodic, free, and fair elections based on universal suffrage. Citizens exercised this right at the national level for the first time on January 30, when they elected the 275 members of the Transitional National Assembly. The TNA subsequently announced the formation of the rest of the transitional government on April 28. On October 15, citizens voted to adopt a permanent constitution, which included the full panoply of protections of human rights. On December 15, citizens voted for representatives for a new legislature, called the Council of Representatives.

The Independent Electoral Commission of Iraq (IECI) had the sole responsibility for administering the October referendum and two elections in January and in December. During the year the IECI continued to draft regulations to support the conduct of a free, fair, and transparent electoral process, including the passage in September of a new election law that mandated a multidistrict electoral process.

*Elections and Political Participation.*—In spite of the threat from terrorist and insurgent violence, the January and the December national elections, as well as the October referendum, were widely considered to have met international standards for free and fair elections. Although the IECI detected irregularities and investigated complaints, these were not enough to change the results of the balloting. The IECI opened more than 6 thousand polling centers throughout the country for a total of more than 30 thousand polling stations available to the eligible voters. The actual voter turnout increased in each succeeding event, with a January election turnout of nearly 59 percent, an October referendum turnout of more than 62 percent, and a December election turnout of 77 percent. The turnout of these combined events showed that overall voters had good access to their respective polling centers.

However, there were some irregularities. In the January elections, many of the mostly non-Muslim residents on the Ninewah Plain were unable to vote. Some polling places did not open, ballot boxes were not delivered, and incidents of voter fraud and intimidation occurred. These problems resulted from administrative breakdowns on voting day and the refusal of Kurdish security forces to allow ballot boxes to pass to predominantly Christian villages. After an investigation of these allegations, the IECI acknowledged that the voting facilities in Ninewah were inadequate. The IECI claimed that these irregularities were due to the poor security situation in Ninewah, Anbar, and other regions. However, the security situation did not affect any particular segment of the population.

During the October referendum, there were few complaints of irregularities, and most related to procedural issues. Although there were allegations of interference by local electoral staff, outsiders, or police, such reports were not widespread.

In November the IECI removed 86 thousand names from the voter list for Kirkuk Province, due to indications that the names reflected multiple registrations or fraudulent registration. However, for the December 15 election, the IECI provided a supplemental voter list that contained the names of all 86 thousand individuals, who were then allowed to vote only if they provided adequate documentation to establish their bona fides as legitimate Kirkuk voters.

Regarding the December 15 election, observer groups and political entity agents submitted more than 1,800 complaints, with 50 complaints designated "red," indicating a complaint that had the potential to affect the outcome of the election. Based on adjudication reports from the IECI, these complaints ultimately did not have an impact on the elections, which was judged to have met international standards. The significant amount of complaints was largely attributed to the IECI outreach campaign that notified observer groups and political entity agents on the complaints procedures as well as the large number of domestic monitors. The IECI also had complaint forms available at each polling station.

After boycotting the January elections, Sunni Arab groups gradually became more actively engaged in the political process at both the national and provincial levels. Arab and Turcoman members on the Kirkuk Provincial Council ended their boycott in early August, and the Kurdish-majority council became an increasingly effective decision-making mechanism.

Although not proportionately represented in the TNA, Sunni Arabs and other minorities had proportional representation on its 71-member subcommittee responsible for drafting the permanent constitution.

The permanent constitution, drafted by the subcommittee and subsequently adopted during the October 15 referendum, was scheduled to come into force following the formation of a permanent government after the December 15 elections. The permanent constitution includes guarantees of basic freedoms and human rights.

Political parties and candidates had the right freely to propose themselves or be nominated by other groups. The government did not restrict political opponents, nor did it interfere with their right to organize, seek votes, or publicize their views.

The country's political parties, as a general rule, tended to be organized along either religious or ethnic lines—sometimes both. Shi'a Islamist parties, such as the SCIRI and Da'wa, as well as such Kurdish nationalist parties as the KDP and PUK, were predominant political forces. Other political players included the Sunni Iraqi Islamic Party and other ethnic minority parties, such as the Assyrian Democratic Movement and the Liberal Faily Kurds Organization.

Membership in the dominant political parties conferred special privileges and advantages in education and employment. There were numerous allegations that the KDP and PUK prevented the employment of nonparty citizens and that courts were biased against nonparty claimants (see section 2.c.).

The TAL provides for the election of women and minorities to the TNA, with a goal of having no less than one-quarter of the representatives be women and of having fair representation of all communities. Women leaders, representing a broad spectrum of political views, expressed concern that some women were selected to participate in the political process—at both the local and national level—only to meet this quota.

There were 87 women in the TNA, 32 percent of the membership, and five women ministers in the government: the minister of state for women's affairs and the ministers of science and technology, displacement and migration, environment, and public works. Additionally, nine cabinet members were from small religious and ethnic minority groups.

The government was representative of the country's ethnic and sectarian diversity, despite the Sunni boycott of the January elections. The Sunni Arab minority had seats in the TNA but proportionally far fewer than their share of the overall

population. Of minorities in the assembly, there were 16 Sunni Arabs, 13 Turcomen, 6 Chaldo-Assyrians, 3 Yazidis, 3 Faily Kurds, 3 Shabak, and at least 1 Kaka'i.

*Government Corruption and Transparency.*—Large-scale financial as well as political, personal corruption in the government remained a severe problem. The Commission on Public Integrity (CPI) head Radhi Hamza al-Radhi told the press in March that corruption within the government was widespread and had worsened (see section 1.c.).

The CPI was formed in January 2004 and is dedicated to preventing and investigating cases of corruption in all ministries and other components of the government nationwide. The CPI is an independent body headed by a single commissioner who reports to the country's chief executive and legislature at least annually on the CPI's activities. The CPI is responsible for investigating allegations of government corruption and referring appropriate cases for criminal prosecution, promoting standards of transparency and accountability in government activities, and conducting community education and outreach programs to stimulate public demand for open, honest, and accountable government.

The CPI grew significantly in size and capacity during the year; it had more than 120 investigators working more than 2 thousand cases. Corruption reports to the CPI hot line far outstripped the organization's investigative capacity, and 587 cases were forwarded to the Central Criminal Court of Iraq (CCCI) for adjudication by 5 investigative judges. By the end of the year, the CCCI had adjudicated only two of these cases due to judicial intimidation, lack of training, and gaps in legislation.

The CPI initiated a code of conduct for government employees during the year, as well as financial disclosure for senior government workers, which was to be implemented in 2006. The CPI also conducted ethics training and educational outreach for selected ministry officials and throughout the provincial governments in an effort to instill respect for the rule of law and curb abuses of power. The CPI worked with the Ministry of Education on incorporating civics and ethics programs into the curricula for primary, secondary, and higher education institutions and established a hot line for citizens to report corruption violations and abuses by public officials. The CPI also investigated a number of cases involving human rights violations.

On February 24, the Supreme Audit Board announced that, as ordered by the Council of Ministers, it would conduct an audit of all contracts with all ministries in an effort to combat corruption within the government.

Investigations into alleged wrongdoing at the MOD, begun in 2004, continued throughout the year and resulted in numerous dismissals and resignations. On October 11, officials issued arrest warrants against former minister of defense Hazem Sha'alan, who was out of the country at year's end, and 27 other officials alleged to have played a key role in the theft of \$1 million (1.5 trillion dinars) in 2004.

In May the former minister of labor and social affairs Layla Abdul Latif was the first ministerial-level official arrested on corruption charges. She was convicted and sentenced to six months (suspended) for using public money to send family members on the Hajj in 2004. Additionally arrest warrants were issued for the former minister of transportation and minister of municipalities and public works, but were not carried out.

There was widespread intimidation, as well as killings and attempted attacks against CPI employees, IG personnel, and witnesses and family members involved with CPI cases. The head of the Mosul branch office Brigadier General Waleed Kashmoula was killed on March 25 when a suicide bomber entered his office and detonated his explosives. The CPI's Engineering Manager Ala' Aldean Waxear al Obaidy and Special Investigative Unit employees Muhammed Abd Salef and Mohammad Fadhil Obaid were killed in ambushes on the road on May 17, August 16, and September 25, respectively. IG staff and ministry employees were fired because they provided corruption evidence.

The CPI established a Witness Protection Program. The CPI Special Investigative Unit investigated intimidation and murder cases but had not prevented or solved any by year's end.

In February 2004 the CPA established a system of 31 IGs in all ministries, the city of Baghdad, the Central Bank, and the religious endowments. The mandate of the IG program, which comprises 2,500 total staff, is to audit, inspect, and investigate in order to reduce fraud, waste, and abuse. IGs also focused on developing standards and ensuring mechanisms to protect human rights were in place. More than 50 percent of IG offices had established a human rights unit within their organization by year's end.

IG staff produced more than 800 audit reports and 950 inspection reports, and conducted approximately 750 investigations during the year. While approximately 15 percent of these cases were referred to the authorities as criminal cases, IG standards remained well below international norms.

The IG system remained vulnerable. Many high-level government officials continued to exercise the autocratic authority permissible under the Ba'hist regime. Officials at the MOI, for example, ordered arrests without first obtaining arrest warrants issued by a judge (see section 1.d.). Court orders requesting proof that an arrest was lawful were sometimes ignored. Several heads of ministries removed their IGs in violation of the law that stipulated the IG might only be removed for specified causes.

No training or professional development mechanisms or common procedures across the ministries existed. Transparency was not common, and ministers often did not understand the effective use of the IGs.

Intimidation and politics were factors in some allegations of corruption, and officials sometimes used "de-Ba'athification" as a means to further political and personal agendas.

On April 25, the Basrah De-Ba'athification Committee dismissed six University of Basrah college deans. A group called "The Forces of Sadr" demanded their removal and threatened to kill the deans' families if they did not comply. University and governorate officials failed to respond to appeals for reinstatement, fearing reprisals from the Sadrist.

Seventeen University of Tikrit professors lost their jobs on October 16, due to de-Ba'athification. The professors claimed that they had maintained party membership only as a requirement of their employment and did not engage in any criminal activity to further Ba'ath Party goals.

The law did not provide public access to government information for citizens and noncitizens, including foreign media.

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

NGO activity and advocacy continued to grow but remained weak overall. National NGOs were newly formed and generally lacked resources, while staff of international NGOs were constrained by both the difficult security situation and their organizations' critical judgments of post-Saddam governing, which often led to mutual distrust. In this atmosphere, the regulatory environment for domestic and international NGOs, in general, deteriorated as the government imposed additional controls over the NGO community and a more onerous registration process. Human rights NGOs continued to face obstacles in gaining access to prisons and detention facilities, and the additional controls imposed on these organizations limited their effectiveness.

In late summer, Ala' Kazim, the state minister for civil society and the government NGO Assistance Office under his supervision initiated a media campaign that many international and domestic NGOs considered an effort at intimidation. The Ministry of Human Rights (MOHR) created a section for NGO outreach and regularly met with human rights NGOs in an effort to facilitate their access to detention facilities. Additionally, the TNA Constitution Committee sought NGO input during the constitution-drafting process, and the state minister for women's affairs regularly coordinated her efforts with the NGO community.

On February 9, the prime minister amended the NGO law and transferred the NGO Assistance Office and its registration authority from the Ministry of Planning and Development Cooperation (MOPDC) to the General Secretariat of the Council of Ministers but gave the state minister for civil society a role in overseeing the office as a consultant. The General Secretariat was to retain ultimate responsibility over the office. On March 3, officials from the State Minister's Office entered the premises of the NGO Assistance Office, removed the office's furniture, equipment, and registration records, and fired the office director.

State Minister for Civil Society Ala' Kazim took office upon the formation of the ITG in April. He subsequently replaced and enlarged the staff of the NGO Assistance Office and issued new registration requirements. Domestic NGOs were required to pay a registration fee of approximately \$75 (112,500 dinars) and provide detailed information about their members. International NGOs were required to comply with requirements that included a \$10 thousand (15 million dinars) registration fee, photographic identification of all members of the NGO, and other new and unpublished administrative procedures.

In August and September, the NGO Assistance Office published a series of announcements threatening the closure of certain international and domestic NGOs unless they registered according to the new rules. International NGOs accused the government of endangering their security by publicly listing their names. In a September 18 announcement, the NGO Assistance Office forbade all NGOs from working with "EIN," a coalition of domestic NGOs that monitors elections. The directive was rescinded after international criticism.

During this period unannounced visits by representatives of the state minister demanding photographs, passport details, names, and addresses of all staff and their family members prompted several international NGOs to relocate local staff and temporarily close their regional offices.

On September 27, the UN Assistance Mission for Iraq wrote on behalf of the international donor community soliciting support from the minister of planning and development cooperation to resolve issues “that have instilled a sense of insecurity among NGO staff, both national and international.”

On October 25, the state minister repealed the registration fee and intrusive personal information requirements.

The KRG and Kurdish political parties generally supported humanitarian NGO activities and programs in the North. However, an anticorruption NGO program faced difficulties in the KRG area because officials maintained that corruption was not a problem. Additionally, the KRG reportedly pressured NGOs into hiring only Kurds and dismissing non-Kurds on security grounds.

The MOHR is responsible for the development and implementation of a human rights policy. No minister of human rights was appointed in the ITG in April, nor had one been appointed by year's end. The minister of environment also served as the acting human rights minister during the year.

The MOHR employed 260 people and, in addition to its office in Baghdad, had offices in Basrah, Tikrit, Nasariyah, and Samarra. There were also KRG ministers of human rights in Irbil and Sulaymaniyah governorates.

During the year the MOHR in the absence of a minister attempted to focus on raising awareness and knowledge of human rights throughout the country, incorporating human rights training into the curricula of all primary and secondary schools, building a viable civil society, working with other ministries to ensure that human rights were a mainstream priority within the government, and assisting with humanitarian exhumations.

The MOHR participated in human rights and other conferences, including joint conferences with the Ministries of Interior, Defense, and Justice.

There was no Human Rights Commission or Ombudsman. The TNA's Human Rights Subcommittee did not play a significant role in developing human rights policy.

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

The TAL provides that all citizens are equal before the law without regard to gender, sect, opinion, belief, nationality, religion, or origin. The government generally enforced these provisions.

*Women.*—The general lack of security in the country and increasingly conservative societal tendencies had a serious, negative impact on women.

In its October report *A Face and a Name: Civilian Victims of Insurgent Groups in Iraq*, HRW said that the lack of security and conservative pressure increasingly forced women to take a less prominent role in public life.

In a July 7 letter to UN Secretary-General Kofi Annan, a group of women activists reported increased human rights abuses against girls and women, including forced veiling, segregation, contracted marriages of underage girls, and killing.

Women leaders—ministers, members of parliament and ambassadors—claimed that some extremist groups targeted women by kidnapping, killing, and terrorizing them in an effort to force them to refrain from working in public, remain at home, wear veils, and adhere to a very conservative interpretation of Islam. According to a February Amnesty International report, women and girls feared abduction, rape, and killing, and the lack of security remained a serious threat.

Islamic extremists reportedly targeted female university students in a number of cities, demanding that they cease wearing western-style clothing and cover their heads while in public. Additionally, these extremists allegedly called for a separation of male and female students in some universities.

According to local law enforcement sources, two or three women were murdered each week in Basrah, where banners were frequently seen that threatened women who did not wear the hijab. It was widely believed that many of the women were killed because they were not wearing the hijab, including some women who were targeted, taken from their homes, and killed. In October, for example, three young women were fatally shot in the head, and their bodies were left near the university.

The law prohibits rape. Prostitution is illegal.

The minister of state for women's affairs (MSWA), with a 17-person professional staff, functioned primarily as a policy office. The MSWA did not have a budget, nor did it have the right to hire employees or interact with cabinet-level ministers without the permission of the Council of Ministers. On November 1, the MSWA announced that the Council of Ministers had approved elevating the office from its

minister of state status to full ministerial status. However, no further action had been taken by year's end.

The MSWA conducted outreach to various governing councils during the year, including Karbala and Wasit, to establish formal liaisons.

The Ministry of Labor and Social Affairs (MOLSA) Social Care Directorate administered a variety of social care institutions, among them institutions for orphans and the elderly. No substantive shelter assistance was offered for victims of domestic violence. Women who were heads of single-parent households received a minimal cash stipend from the ministry; however, the budget for this assistance did not meet the need.

Victims of domestic violence received no substantive assistance from the government. Domestic violence against women occurred, but little was known about its extent. Such abuse was customarily addressed within the tightly knit family structure. There was no public discussion of the subject, and no statistics were published. There were some reports during the year that honor killings occurred, but no further information was available.

*Children.*—The government was committed to children's rights and welfare, although noncitizen children were denied government benefits. The category "noncitizen children" includes the children of Iraqi mothers and noncitizen fathers. They had to pay for services such as otherwise free public schools, costing approximately \$1 thousand (1.5 million dinars) per year; health services; and, except for several hundred Palestinian families, were not eligible for the national food rationing program. According to the law, a person born outside the country to an Iraqi mother and unknown father or one without citizenship can petition for citizenship within one year prior to reaching legal age, while residing in the country.

According to a survey of living conditions conducted in the second half of 2004 by MOPDC in conjunction with the UN Development Program, almost one-half of the country's population was less than 18 years of age.

Free primary education is compulsory for 6 years, and 89 percent of students reach the 5th grade. The net enrollment of primary school-aged children was 79 percent—83 percent for boys and 74 percent for girls. The percentage of children enrolled in primary schools was much lower in rural areas, particularly for girls, whose enrollment was approximately 60 percent. Overall enrollment in school of those ages 6 to 24 is 55 percent.

According to a MOPDC survey, youth literacy (ages 15 to 24) was 74 percent and adult literacy 65 percent. Only 56 percent of women were literate, compared to 74 percent of men. Both the level of education and literacy rates for women and girls dropped significantly in the last 15 years, especially in rural areas.

There was substantial progress in rebuilding the country's education system. The Ministry of Education produced a strategy to reorganize and restaff the ministry, rehabilitate school infrastructure, retrain teachers, and institute a national dialogue and framework for curriculum reform. More than 3 thousand schools were rehabilitated, and more than 19 thousand primary and secondary schools teachers and administrators were trained during the year.

Ministry of Health clinics provided health care, which was generally free of charge to all citizens. There was no systemic distinction in the care provided to boys and girls.

MOLSA operated a total of 22 orphanages for older children in Baghdad and the provinces, housing a total of 617 children, and 42 orphanages for young children, housing a total of 1,519 children.

In an effort to address juvenile delinquency, the MOI, in cooperation with MOLSA, initiated on March 20 a campaign to respond to the growing problem of street children. MOLSA officials estimated that approximately 480 homeless children in Baghdad alone were placed into homes during this campaign.

Press reports indicated that insurgents often used children as informers and messengers and in diversionary tactics to distract security forces. Children sometimes participated directly in attacks as well (see section 1.g.).

*Trafficking in Persons.*—Detection of trafficking was extremely difficult due to lack of information because of the security situation, existing societal controls of women, and the closed-tribal culture. There were reports of girls and women trafficked within the country for sexual exploitation.

Five European countries successfully stymied a criminal network trafficking Iraqi citizens to Turkey, Greece, Italy, France, and the United Kingdom, reportedly for commercial sexual exploitation within the European Union.

The MOI has responsibility for trafficking-related issues, but the demands of the security situation relegated trafficking to a lesser priority. Trafficking crimes were not specifically enumerated in MOI statistics on criminal activity. There were no

government sources of information; the MOI did not track these crimes or include them in the police training curriculum or conduct trafficking-related investigations.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical disabilities. The government enforced the law in the government but not in the private sector. The government proactively hires persons with disabilities.

MOLSA operated several institutions for the education of children and young adults with disabilities. These institutions offered basic educational services; however, they did not have access to appropriate pedagogical technology due to the absence of training and funding.

Seventeen institutes operated in Baghdad and the provinces for persons with mental and psychological handicaps and housed 1,096 persons. Additionally, there were 33 institutes throughout the country for persons with physical disabilities, including homes for the blind and deaf, as well as vocational/rehabilitation homes.

The government provided benefits for many thousands of veterans with disabilities, many of whom supplemented their benefits with some employment.

*National/Racial/Ethnic Minorities.*—Ethnically and linguistically, the country's population includes Arabs, Kurds, Turcomen, Chaldeans, Assyrians, Shabak, and Armenians. The religious mix is likewise varied (see section 2.c.).

Assyrians and Chaldeans are considered by many to be a distinct ethnic group. These communities speak a different language (Syriac), preserve Christian traditions, and do not define themselves as Arabs.

The TAL identifies Arabic and Kurdish as the two official languages of the state. It also guarantees the right of citizens to educate their children in their mother tongue, such as Turcoman, Syriac, or Armenian, in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions.

The government or its agents reportedly committed abuses against some minorities. For example, on July 18, army forces allegedly attacked the Iraqi Turcomen Front in Mosul, pouring gasoline and igniting all the guard posts.

Kurdish authorities abused and discriminated against minorities in the North, including Turcomen, Arabs, Christians, and Shabak. Authorities denied services to some villages, arrested minorities without due process and took them to undisclosed locations for detention, and pressured minority schools to teach in the Kurdish language. Ethnic and religious minorities in Kirkuk frequently charged that Kurdish security forces targeted Arabs and Turcomen. Kurds also complained that Turcoman election officials tried to prevent Kurdish participation and that Arabs prevented Kurds from returning to their homes in Kirkuk.

Palestinians reportedly experienced arrest, detention, harassment, and abuse by police, by individuals pretending to be police, and by the general public.

#### *Section 6. Worker Rights*

During the period, the operative law was the TAL, which affirmed the continued validity of the 1987 labor code, and CPA Order 89, which amended it. The exercise of labor rights remained limited, largely due to insurgent violence, high unemployment, and maladapted labor organizational structures and laws.

The MOLSA Labor Directorate has jurisdiction over the labor code, child labor, wages, occupational safety and health issues, and labor relations.

*a. The Right of Association.*—Workers are guaranteed the right of free, peaceable assembly and the right to join associations freely, as well as the right to form and join unions and political parties freely in accordance with the law; however, the exercise of these rights remained limited. The government was largest employer in the country, and the status of government workers remained unclear. Under the 1987 labor law, government workers were considered professionals not entitled to join unions. This prohibition remained unenforced, although unmodified. In this situation, some government agencies tacitly accepted unions, while others banned them. There were no legal or practical restrictions on who may be a union official or advisor, excessive or arbitrary registration requirements, or restrictions on union political activity. The law did not prohibit antiunion discrimination by employers or others.

In Baghdad on January 4, the international secretary of the Iraqi Federation of Trade Unions and a Communist Party leader, Hadi Saleh, was bound, beaten, burnt, killed by choking with an electric cord, and then his body was machine-gunned by unknown assailants, according to media reports.

During most of the year, MOLSA continued to recognize and deal only with the IFTU. However, in September this federation joined with two other labor federations to create the General Workers Federation of Iraq (FGTI), and MOLSA dealt with this new entity. Subsequently, the government recognized or dealt only with unions belonging to FGTI.



The absence of laws and procedures consistently recognizing workers unions as legal entities left them vulnerable to government actions against their assets and bank account. In August a separate interministerial group headed by the minister of civil society challenged the legal standing of all union federations, as well as other "civil society" organizations, and began procedures to seize union-owned buildings and freeze bank assets. The origin and use of union assets and property and alleged corruption were central to the inquiry that was ongoing at year's end. At year's end many union properties, assets, and bank accounts remained frozen. There was no accountability to unions or oversight of these frozen funds.

There were no reported prosecutions of unions, or union federations or leaders for corruption during the year.

*b. The Right to Organize and Bargain Collectively.*—The TAL states that every citizen has the right to demonstrate and strike peaceably in accordance with the law. There were a number of strikes and labor actions by the powerful petroleum workers union. There were no reported reprisals against strikers. Typically strikes in the public sector occurred due to low salaries. Petroleum workers went on strike due to the fear that they might be replaced by foreign workers. More common than strikes were popular protests over unemployment. The law does not address collective bargaining, which is prohibited in the public sector and was not widespread in the country. Government labor courts are empowered to rule on labor code violations and disagreements.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The criminal law prohibits forced or compulsory labor, including of children. According to some press reports, foreign workers in the country were subjected to abusive treatment; no legal action in this area was reported.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the worst forms of child labor. CPA Order 89 limits working hours for workers under 18 years of age and prohibits their employment in dangerous occupations. The minimum age for employment is 15 years. Due to the effects of the ongoing insurgency, the Child Labor Unit of MOLSA's Labor Directorate had neither enough inspectors nor resources to enforce the law, maintain programs to prevent child labor, or remove children from such labor.

Despite the various laws and regulations, children were routinely used as an additional source of labor or income among the 1 million families subsisting on a per capita daily income of less than \$1 (1,500 dinars). This work often took the form of seasonal manual labor in rural areas. In cities it often meant begging or peddling a variety of products, as well as working in sometimes hazardous automobile shops or on construction sites.

Additionally, news reports indicated that families also used minors in insurgent activities. For example, the UN Global Policy Forum on March 15 in its report indicated that more than 20 Baghdad children received daily lessons to become insurgents and participated in diversion tactics to distract troops.

Projects to combat child labor were few, and those that existed affected few children. The government took action only as funded by the UN Children's Fund (UNICEF) or NGOs. For example, the Italian branch of the international NGO Terre des Hommes and UNICEF operated a rehabilitation and counseling center for a small number of working street children in Baghdad. Kurdish authorities supported several small-scale projects to eliminate child labor in the KRG area. UNICEF established centers for working children in Irbil.

*e. Acceptable Conditions of Work.*—The national minimum wage for a skilled worker was less than \$7 per day (10,500 dinars) and for an unskilled worker less than \$3.50 per day (5,250 dinars). Wages are set by contract in the private sector and set by the government in the public sector. The standard workday is 8 hours with 1 or more rest periods. Up to four hours of overtime work per day is permitted, and premium pay for overtime is required. The average salary was approximately \$1,250 per year (1.875 million dinars). Unskilled workers must work 357 days per year to achieve this average. These earnings were barely above poverty level (\$2 per day or 3 thousand dinars) and did not provide a decent standard of living for a worker and family. A teacher can provide for a spouse and three children at a poverty level.

The occupational safety and health component of MOLSA had approximately 129 staff located throughout the country. Occupational safety and health programs existed and were sometimes enforced in state-owned enterprises. Enforcement of safety standards at private sector work sites was intermittent, and programs were rare. Most occupational safety issues were linked to violence and terrorism, not health.

## ISRAEL

With a population of approximately 6.9 million (including about 5 million Jews within Israel), Israel is a multiparty parliamentary democracy. “Basic laws” enumerate fundamental rights. The 120-member, unicameral Knesset, has the power to dissolve the government and mandate elections. Both the 16th (most recent) Knesset and Prime Minister Ariel Sharon were elected democratically in 2003. In November Sharon requested that the president dissolve the Knesset, announced that he was leaving the Likud Party, and established a new party, *Kadima* (“move forward”). The president set elections for March 28, 2006. On December 29, pursuant to presidential decree, the Knesset was dissolved.

The judiciary is independent and sometimes ruled against the executive, including in some security cases. Notwithstanding some cases of abuse by individuals, the civilian authorities maintained effective control of the security forces. (An annex to this report covers human rights in the occupied territories. This report deals only with human rights in Israel.)

In August and September, Israel withdrew all civilians and military personnel from all 21 Israeli settlements in the Gaza Strip and from 4 settlements in the northern West Bank of the over 200 settlements there. Palestinians in the occupied territories are not citizens of the country and do not enjoy the rights of citizens, even if living in areas under full Israeli authority or arrested in Israel. The approximately 20 thousand non-Israeli residents of the Golan Heights were subject to Israeli authority and Israeli law.

The government generally respected the human rights of its citizens; however, there were problems in some areas, including the following:

- serious abuses by some members of the security forces against Palestinian detainees
- Palestinian terrorist attacks against Israeli civilians and Israeli Defense Force (IDF) soldiers resulted in the death of 29 civilians and an IDF soldier within Israel
- poor conditions in some detention and interrogation facilities
- improper application of security internment procedures (see annex)
- institutional, legal, and societal discrimination against the country’s Arab citizens
- discrimination in personal and civil status matters against non-Orthodox Jews
- societal violence and discrimination against women
- trafficking in and abuse of women and foreign workers
- de facto discrimination against persons with disabilities
- government corruption

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

On September 18, the Ministry of Justice Police Investigation Department (PID) closed its investigation into the police killings of 13 (12 Israeli-Arab and 1 Palestinian) protesters during October 2000 demonstrations (see section 2.b.) without recommending indictments against any officers. Due to protests by the Israeli-Arab community and NGOs against this decision, as well as the concern that community leaders or the victims’ families would appeal the PID’s decision to the supreme court, the PID and the attorney general decided on September 28 to reexamine the investigation.

The Orr Commission of Inquiry, established in November 2000 to investigate the killings, recommended a number of measures, including a justice ministry investigation to determine if criminal prosecutions should be initiated against police officials found responsible. The government has not implemented either the Orr Commission recommendations or those of a follow-up interministerial committee. In October 2004 the justice minister appointed one of the officers being investigated to a position seen by observers as a promotion. The Legal Center for Arab Minority Rights in Israel (Adalah) charged that this appointment violated the Orr Commission recommendation that this particular officer not be promoted for four years.

On May 2, Adalah appealed the March 6 closure of the investigation into the July 2003 killing by Border Police of Morassi Jibali, an Israeli Arab shot while a pas-

senger in a vehicle. Police and witnesses gave differing accounts of Jibali's death. Adalah's appeal challenged the justice ministry's finding that the shooting was not illegal. At year's end Adalah's appeal remained pending.

In July 2003 a police officer killed an unarmed Bedouin, Nasser Abu al Qia'an, in his car at a road junction. In September the justice ministry filed an indictment against the police officer, who was subsequently tried and found not guilty on the grounds of self-defense. The Mossawa Advocacy Center for Arab Citizens of Israel (Mossawa) appealed the decision, and at year's end the case was pending.

In September 2003 residents of an Arab community, Kfar Qassem, clashed with border police searching for illegal immigrants. The police wounded one Israeli Arab, when, according to police reports, villagers threw stones. On January 10, the attorney general filed an indictment with the Tel Aviv District Court against the border police officers involved. According to the Arab Association for Human Rights (AAHR), during the year the indictments against the border police officers were dismissed due to lack of evidence.

Terrorist organizations such as the Islamic Resistance Movement (Hamas), Al-Aqsa Martyrs' Brigades, Hizballah, Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine, attacked Israelis in Israel. According to government statistics, during the year terrorist attacks killed 29 Israeli civilians and an IDF soldier within the country. Terrorist attacks injured over 430 civilians and over 200 security force personnel during the year. (No breakdown between Israel and the occupied territories was available for those injured.)

Construction of a security barrier (see annex) and effective interdiction contributed to a 60 percent reduction in the number of Israelis killed in terror attacks between 2004 and 2005 and a 30 percent reduction in casualties, according to the government(see annex).

On January 13, Palestinian terrorists killed six Israeli civilians and wounded five others on the Israeli side of the Karni Crossing between Israel and the Gaza Strip. Hamas and the al-Aqsa Martyrs' Brigade claimed responsibility.

On February 25, a Palestinian suicide bomber at the Stage nightclub in Tel Aviv, killed himself and 5 Israeli civilians and wounded approximately 50 persons. Palestinian Islamic Jihad claimed responsibility.

On July 12, a Palestinian suicide bomber at a shopping mall in Netanya killed himself and 5 Israeli civilians and wounded about 90 persons. Palestinian Islamic Jihad claimed responsibility.

On October 26, a Palestinian suicide bomber at a marketplace in Hadera killed himself and 5 Israeli civilians and wounded over 50 others. Palestinian Islamic Jihad claimed responsibility.

On December 5, a Palestinian bomber at a shopping mall in Netanya killed himself and 4 persons and injured at least 50 others. Palestinian Islamic Jihad claimed responsibility.

Palestinian terrorists routinely fired rockets from the Gaza Strip into neighboring Israeli communities. According to the government, the number of Qassam rockets fired at Israeli targets increased during the year to 377, as compared to 309 in 2004. On January 15, a 17-year-old girl in the town of Sderot was wounded by shrapnel from a rocket and died several days later. Her younger brother was wounded. Rocket attacks wounded another five civilians in Sderot on September 24 and 25.

On August 4, Eden Natan-Zada, a member of the illegal right-wing Jewish movement Kach, fired on a bus in the Israeli-Arab town of Shfaram, killing four Israeli Arabs and wounding over a dozen others. Persons who witnessed the attack then killed Zada. On August 7, police arrested three alleged associates of Zada, all of whom were members of Kach, for possible knowledge of or involvement in the shooting. A court order prohibited publication of any information relating to this case.

In August the government decided that families of Zada's victims would not be eligible for compensation under the Terror Law because the attack was not committed by so-called enemy forces. Subsequently, however, under security authority, the defense ministry decided that the government should compensate the victims. At year's end the compensation cases were still pending.

On May 24, the Haifa District Court convicted Alexander Rabinovitch of involvement in several years of terrorist activity against Israeli-Arab residents of that city, including the attempted bomb attack against Knesset member Issam Makhoul in October 2004. At year's end the court had not announced its sentence.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Laws, judicial decisions, and administrative regulations prohibit torture and abuse; however, during the year reputable nongovernmental organizations (NGOs) filed nu-

merous credible complaints with the government alleging that security forces tortured and abused Palestinian detainees. The Public Committee Against Torture in Israel (PCATI) filed complaints with the government on behalf of alleged victims of torture, which, PCATI reported, were almost all Palestinian security detainees and prisoners at detention facilities in Israel. For example, on March 10, PCATI petitioned the supreme court on behalf of a Palestinian resident of the West Bank city of Tulkarm. The petition asked the court to order the government to cease immediately illegal means of interrogation, including tightening of manacles, painful positioning, sleep deprivation, beatings, threats, and insults. During court proceedings the detainee was released.

In August PCATI notified the Israel Prison Service (IPS) and the Israel Security Agency (ISA) about treatment of a Palestinian resident of Tulkarm held as of April 22 in the Kishon Detention Center. The detainee alleged he was subjected to painful positioning, beatings, long periods of interrogation, threats, and food and sleep deprivation. PCATI reported that the complainant suffered severe back pains and paralysis in his left leg from the abuse. At year's end PCATI's petitions with the ISA and the IPS were pending.

On December 20, the Tel Aviv District Court rejected the state's petition to dismiss a lawsuit filed by Lebanese citizen Mustafa Dirani, who charged that Israeli security forces tortured and raped him during interrogations between 1994 to 2004 in order to obtain information on the whereabouts of Israeli Air Force navigator Lieutenant Colonel Ron Arad. According to media reports, an IDF doctor who had examined Dirani found evidence to support Dirani's claim. At year's end the case was pending. (Allegations by Palestinian detainees of torture by Israeli security officials are discussed in the annex to this report.)

PCATI stated that no ISA officials had been tried on torture charges during the past four years. PCATI claimed that the government took insufficient action to reprimand ISA interrogators against whom PCATI filed complaints.

During the year the courts convicted border police officers for abuse of Palestinians. On January 13, an Israeli court convicted three former border police officers who had confessed to assaulting eight Palestinians in 2004 from the West Bank village of Yatta. The three policemen admitted beating the Palestinians and stealing their money. On April 5, the Jerusalem District Court sentenced 3 border policemen to prison terms of 6 to 10 months for assaulting 2 Palestinian teenagers in April 2004 near the Israeli town of Abu Ghosh. The court convicted the officers of beating and abusing the Palestinian youths. On July 7, the Tel Aviv District Court sentenced 3 border policemen to 10-month jail terms for abusing and robbing 8 Palestinians in the Israeli city of Lod in July 2004.

Physicians for Human Rights reported that there were no further developments in Israel's investigation into cases of abuse of prisoners in Sharon prison in 2004; there were no further reports of abuse at that prison.

In May 2004 a government official who worked as an inspector at deportation hearings secretly recorded a senior immigration police officer stating that immigration police used excessive force when detaining foreign workers but did not indicate the extent of the abuse. Following this incident the inspector filed a complaint with his superiors about this reported abuse. When the inspector saw that his complaint was not being handled, he wrote letters to the interior ministry, the state comptroller, and other government officials. Shortly after sending the letters, the inspector was dismissed. He contested his dismissal and sued the interior ministry in labor court. On June 22, the court accepted his claim and awarded compensation in the sum of 2 months wages plus approximately \$6 thousand (approximately 28,300 NIS), and \$1 thousand (approximately 4,700 NIS) in legal expenses. Subsequently, the immigration police officer confirmed the statement that the inspector recorded; however, the Immigration Police spokesperson disputed its veracity. At year's end a Knesset Committee on Foreign Workers continued to monitor excessive force by immigration police when detaining foreign workers.

The Hotline for Migrant Workers (Hotline), an NGO foreign workers advocacy group, helped 10 foreign workers during the year to file complaints with the PID accusing police officers of excessive violence during apprehension. The Hotline reported that foreign workers usually decided not to file complaints or to testify due to fear of prolonged detention while their cases were under investigation.

*Prison and Detention Center Conditions.*—Conditions in IPS facilities, which house common law criminals and convicted security prisoners (primarily Palestinians), and in IDF military incarceration camps, which hold convicted Palestinian security prisoners, generally met international standards. The International Committee of the Red Cross (ICRC) had access to these facilities. In June 2003 the supreme court issued a permanent injunction mandating that every detainee be provided a bed by June 2004. On May 26, in response to a 2004 petition, the high court

issued a show-cause order instructing the government to explain why it had not provided a bed for every prison inmate. On September 18, the Israeli Bar Association (IBA) charged that poor jail conditions led inmates to commit suicide.

On January 27, a prisoner died and five were injured at the Megiddo military detention camp when a tent housing the prisoners caught fire. Some prisoners charged the prison authorities with neglecting to repair faulty electrical wires that they said caused the fire. A reputable international organization found the fire to be accidental.

The law provides detainees the right to live in conditions that do not harm their health or dignity. Police detention and interrogation facilities for Palestinian detainees were overcrowded and had austere conditions. Conditions and treatment at the Russian Compound interrogation center in Jerusalem remained harsh. A Physicians for Human Rights in Israel (PHR) representative reported in September that the justice ministry sent them a letter in December 2003 stating that “banana” positioning (prisoner’s hands and feet handcuffed together behind the back) was no longer used; however, the PHR representative noted that PHR could not verify this claim. PHR reported that during the year, security forces more frequently relied on psychological rather than strictly physical forms of abuse, including threats of house demolition or questioning prisoners’ elderly parents, and kept prisoners in harsh conditions, including solitary confinement, for long periods. A reputable international organization reported that it received information that doctors examined prisoners to determine whether the prisoners could withstand further interrogation. The organization reported it intervened with the government about this practice, but at year’s end it had received no response.

While Israeli citizen prisoners 17 years and younger were separated from adult prisoners, Palestinian prisoners 16 years and older were treated and housed as adults. The ICRC reported that, as of the end of December, the government held 460 Palestinians age 15 or younger, the youngest 11 years old. The ICRC also reported that most Palestinian security detainees ages 15 and younger were held in Hasharon minors’ prison. According to a reputable international organization, minors held in Hasharon prison had limited access to education and were held in conditions similar to those of adult jails. Conditions in detention facilities were more provisional; no organized education was provided. According to a reputable international organization, conditions in the minors’ facility improved since a new prison warden was appointed in 2004.

The ICRC regularly monitored IPS facilities, as well as IDF security prisoner and detention facilities; it did not monitor the secret detention facility. Pursuant to a 1979 ICRC-Israel agreement, it could not visit interrogation facilities but could meet in designated areas of these units detainees who had been interrogated.

The government permitted some NGOs to monitor prison or detention facilities. In addition NGOs can send lawyers and representatives to meet prisoners in those facilities. PHR was allowed to inspect police detention facilities and make several inspection tours per year but was not given comparable access to IPS facilities. The IBA and public defenders were permitted to inspect IPS facilities. The IBA has agreements with the government allowing selected lawyers to inspect prison, detention, and IDF facilities within the country.

In December 2004 in response to a petition by the Center for the Defense of the Individual (HaMoked) to compel the government to release information on a secret IDF detention facility, the supreme court gave the government 60 days to respond to its undisclosed suggestions related to the secret facility. The court ruled that the government must inform the court should any detainee be imprisoned in that facility. According to HaMoked in August the deputy state attorney announced it would create a system to reduce the use of the secret facility considerably. HaMoked repeated its objection to the use of the facility and asked the court to continue proceedings on its petition. HaMoked reported that the court scheduled another hearing for January 2006.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions for citizens. Palestinian security internees fell under the jurisdiction of military law even if detained in Israel (see annex). Non-Israeli former Syrian residents of the Golan Heights are subject to the same laws as apply to Israeli citizens.

An arrested person is considered innocent until proven guilty, has the right to habeas corpus, to remain silent, to be represented by an attorney, to contact his family without delay, and to a fair trial. A bail system exists for Israelis and Palestinians; decisions denying bail can be appealed. As a general practice, according to the NGO B’Tselem, Palestinians detained for security violations were not granted bail. A citizen may be held without charge for 24 hours before being brought before a judge (48 hours for administrative detainees). If the detainee is suspected of committing

a “security offense,” the basis on which most Palestinians are detained, the police and courts can delay notifying legal counsel for up to 31 days.

The government may withhold evidence from defense lawyers on security grounds; however, the evidence must be made available to the court. In March 2004 the Public Defender’s Office charged that the police sometimes failed to inform detainees of their legal rights and did not always provide counsel. As a result the Public Defender’s Office estimated that “in recent years” approximately 500 persons were deprived of due process rights.

*Role of the Police and Security Apparatus.*—The ISA (or Shin Bet), under the authority of the prime minister, combats terrorism and espionage in the country and the occupied territories. The National Police, including the Border Police and the Immigration Police, is under the authority of the minister of internal security. A bureau in the justice ministry reviews complaints against police officers and may impose disciplinary charges or recommend indictments against officers. During 2004 several judges criticized the bureau for launching faulty investigations against police officers who were subsequently acquitted.

The National Police were generally effective, but, according to the Movement for Quality in Government, lacked sufficient resources, particularly personnel and notably qualified personnel to address government corruption. Police corruption was generally not a problem. The police utilized training programs. For example, in November the Police Training Department issued a special freedom of speech training kit to help police officers differentiate between protected free speech and unlawful incitement.

*Arrest and Detention.*—The law provides that foreign nationals detained for suspected violations of immigration law be afforded an immigration hearing within four days of detention. They have the right to, but no guarantee of, legal representation. According to the NGO Hotline, appropriate interpreters were not always present at the hearings, despite a 2002 commitment to provide them. The Hotline received complaints from Israeli attorneys of denial of access to foreign national clients. According to the Association for Civil Rights in Israel (ACRI), voluntary organizations must obtain a power of attorney from the individual they seek to represent before being permitted to work with him. Attorneys now can meet at Ben Gurion Airport with clients denied admission to the country and awaiting deportation, if the clients have passed a security check. According to Hotline, foreign detainees were rarely released pending judicial determination of their status. Moreover, if the detainee’s country of origin had no diplomatic or consular representation, detention could last months. According to Hotline, the police detained and deported legal foreign workers to meet quotas to reduce the foreign worker population. The Hotline reported that Immigration Police often detained properly documented asylum seekers, despite their being under the protection of the office of the UN High Commissioner for Refugees (UNHCR).

Foreign embassies frequently received belated notification, or none at all, of their citizens’ arrests, especially in the cases of foreign nationals alleged to have committed security-related offenses. In some cases foreign consulates waited for weeks to gain consular access to prisoners.

Pursuant to the 1979 Emergency Powers Law, the defense ministry may detain persons without charge or trial for up to six months, renewable indefinitely subject to district court review. Such detainees are permitted legal representation, but the court may rely on confidential information denied to detainees and their lawyers. Detainees can appeal their cases to the supreme court.

The Illegal Combatant Law allows the IDF to detain persons suspected of “taking part in hostile activity against Israel, directly or indirectly” or who “belong to a force engaged in hostile activity against the State of Israel.” Under this law persons may be held for up to 14 days without access to an attorney. In the past human rights groups alleged abuse of administrative security detention orders and claimed such orders were used even when the accused posed no clear danger.

In August ACRI petitioned the administrator of the high court to bar the government’s use of special courts established in the country’s Negev region to hear cases of individuals arrested for protesting government policies and actions, including those arrested in the withdrawal from settlements in the Gaza Strip and from the northern West Bank. ACRI argued that these courts heard approximately 60 police remand requests at a time, and that judges could not properly prepare for the cases. ACRI also charged that such arrestees did not have the opportunity to meet with their attorneys. ACRI reported that the court agreed in August to limit the use of such courts to emergency situations and did so.

On December 22, the Tel Aviv District Court approved a plea bargain convicting Israeli citizen Tali Fahima of relaying information to the enemy, contacting a for-

sign agent, and breaching a legal order. The court sentenced her to 3 years in jail, but with time served Fahima could be released in 11 months. The state dropped the most serious charge of aiding an enemy in time of war. The defense ministry had placed Fahima under administrative detention between September and December 2004 based on confidential evidence that she was involved in terrorist activity. The supreme court denied Fahima's appeal in November 2004. In December 2004 the Tel Aviv Magistrate's Court indicted her for assisting the enemy during wartime and passing information to the enemy.

In January 2004 the government released Mustafa Dirani, head of security for the Amal militia; Sheikh Obeid, a Lebanese cleric; and approximately 25 other Lebanese prisoners held as enemy combatants, in return for release of Elchanan Tanenbaum, a kidnapped Israeli held by the Hizballah terrorist group in Lebanon, and the remains of three IDF soldiers kidnapped to Lebanon in 2000. On September 8, the high court declined to rule on an appeal submitted by the attorney for Obeid and Dirani challenging the Illegal Combatants Law. The court noted the appeal was moot since both appellants had been released and repatriated to Lebanon.

The government reported that it had detained Hassin Makded in secret facility "1391" for over 18 months under "extraordinary circumstances and exceptional grounds." He was subsequently released. The government did not identify the period during which he was detained. The supreme court continued to consider a petition challenging the legality of this secret facility (see section 1.c.).

According to a reputable international organization, at year's end, 3 Lebanese nationals and 61 Jordanian nationals remain detained, most of them on security charges.

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

The Judicial Branch is organized into three levels: magistrate courts; six district courts; and the supreme or high court. District courts prosecute felonies, and magistrate courts prosecute misdemeanors. There are military, religious, labor relations, and administrative courts, with the High Court of Justice as the ultimate judicial authority. The high court is both a court of first instance and acts as an appellate court when it sits as the supreme court. Religious courts, representing the main recognized religious groups, including Christian communities, have jurisdiction over matters of personal status for their adherents (see section 2.c.).

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The country's criminal justice system is adversarial, and professional judges decide all cases.

Nonsecurity trials are public except when, in the opinion of the court, the interests of the parties are determined to be best served by privacy. Security or military trials are open to independent observers at the discretion of the court, but not to the general public. The law provides for a hearing with legal representation, and authorities generally observed this right in practice. In cases of serious felonies—crimes subject to penalties of 10 years or more—indigent defendants receive mandatory legal representation. Indigent defendants facing lesser sentences are provided representation on a discretionary basis. Counsel represented approximately 70 percent of defendants.

The 1970 evidentiary rules governing trials under military law of Palestinians and others applicable in the occupied territories are the same as evidentiary rules in criminal cases. Convictions may not be based solely on confessions; however, according to PCATI, in practice security prisoners have been sentenced on the basis of their coerced confessions, those of others, or both. Counsel may assist the accused in such trials, and a judge may assign counsel to those defendants. Indigent detainees do not automatically receive free legal counsel for military trials. The defendant and the public receive the charges in Hebrew, and the court can order an Arabic translation. Military and criminal court sentencing procedures were consistent. Defendants in military trials can appeal through the Military High Court and also petition the civilian high court in cases in which they believe there were procedural or evidentiary irregularities.

There are also custodial courts and four deportation courts to address the removal of illegal immigrants. In May 2004 the custodial courts were placed under the jurisdiction of the justice ministry. These courts handle thousands of cases annually.

In May 2004 after arresting new suspects, police released three Israeli Arabs who had been jailed for 10 months charged in the July 2003 killing of IDF corporal Oleg Shaigat. One of those released asserted that his confession was coerced. According to the government, during the year the state attorney investigated the matter, adjusted operational practices, and established a joint team to implement the new practices.

Since the May 2003 arrest of Sheikh Raed Salah, the Arab-Israeli former mayor of Umm al-Fahm, human rights NGOs have claimed that he was unfairly denied bail despite his status and community ties; however, in January Salah pleaded guilty to transferring funds to illegal organizations and giving information to a foreign agent. Subsequently, the government dropped its most serious charges, including that he channeled money to a terrorist organization. The Haifa court sentenced Salah to three and a half years in prison and, pursuant to the plea bargain, released him on July 16, six months after sentencing. Salah also received a three-year suspended sentence to be imposed if he again commits any of the offenses for which he was convicted. He also was prohibited from entering Jerusalem without police permission for four months.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Laws and regulations provide for protection of privacy of the individual and the home. In criminal cases the law permits wiretapping under court order; in security cases the defense ministry must issue the order. Under emergency regulations authorities may open and destroy mail based on security considerations.

In May 2004 the high court banned the unsupervised electronic flow to public bodies and banks of data on private citizens maintained by the government's population registry.

Separate religious court systems adjudicate personal status matters, such as marriage and divorce, for the Jewish, Muslim, Christian, and Druze communities. Jews can marry only in Orthodox Jewish services. Jews and members of other religious communities who wish to have civil marriages; Jews who wish to marry according to Reform or Conservative Judaism; those not recognized by Orthodox authorities as being Jewish; and those marrying someone from another faith, must marry abroad to gain government recognition. While government-recognized civil marriages are available in Cyprus, this requirement presents a hardship.

On July 27, the Knesset extended until March 2006 the 2003 law that prohibits citizens' Palestinian spouses from the occupied territories from residing in the country; however, it amended the law so that Palestinian men aged 35 and older and women aged 25 and older are eligible to apply for citizenship through family unification (see section 5). Civil rights groups criticized the amended law for continuing to deny citizenship and residency status to spouses of Israeli Arabs, who constitute the majority of those who marry Palestinians from the occupied territories. At year's end the supreme court was considering petitions by NGOs, including Adalah, that challenged the law, as well as its amendments.

The authority to grant status to the non-Israeli spouse, including Palestinian and other non-Jewish foreign spouses, resides with the minister of the interior. An ACRI report indicated that the ministry refused to register children in the population registry born to an Israeli father and foreign national mother.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice subject to restrictions concerning security issues. The law prohibits hate speech and incitement to violence, and the 1948 Prevention of Terrorism Ordinance prohibits expressing support for illegal or terrorist organizations.

Nuclear whistleblower Mordechai Vanunu, released in April 2004 after serving 18 years in prison for treason and espionage, continued to be subjected to detailed restrictions on speech and movement (see section 2.d.). As a condition for release, he was prohibited from meeting with members of the foreign press unless granted permission by the government. Vanunu reportedly openly violated this prohibition during the year. According to his attorney, aside from his petition with the supreme court demanding the annulment of the restrictions on movement and association, Vanunu was challenging indictments for having met on several occasions since his release with foreign nationals and the foreign press and for traveling to the West Bank. At year's end these proceedings were ongoing.

In November 2001 Arab Knesset Member Azmi Bishara was indicted, after the Knesset lifted his immunity, for making allegedly pro-Hizballah statements in 2000 in Syria and later in the Israeli-Arab city of Umm al-Fahm. In November 2004 the supreme court denied a petition to dismiss the charges. On July 31, the supreme court heard arguments on lifting Bishara's parliamentary immunity. At year's end the case was still pending.

On December 15, the attorney general announced a police investigation into allegations that Israeli-Arab Knesset member Taleb el-Sana traveled to Syria, which is considered an "enemy country," on November 8. Travel to an enemy country without



first obtaining interior ministry permission violated ministry regulation. El-Sana allegedly traveled to Syria after the ministry denied his request.

In August 2004 the supreme court ruled that the Government Press Office (GPO) could not, as a blanket policy, refuse press credentials to Palestinians from the occupied territories seeking to report official events in Israel. The court said a blanket policy did not properly balance freedom of the press and national security. In July the IDF confiscated the GPO credentials of Yishai Carmeli-Polak, an Israeli journalist and director of documentary films. Carmeli-Polak has produced documentaries about demonstrations against the separation barrier in the West Bank village of Bil'in. The government returned the credentials in August after civil rights and media organizations protested.

The country has 12 daily newspapers, 90 weekly newspapers, more than 250 periodical publications, and a number of Internet news sites. All newspapers in the country were privately owned and managed. According to the Journalism Ordinance, anyone wishing to publish a newspaper must apply for a license from the locality where the newspaper will be published. The ordinance also allows the minister of interior, under certain conditions, to close a newspaper. In November 2004 the high court heard a petition filed by ACRI challenging the ordinance. ACRI withdrew its petition after the interior ministry pledged to prepare legislation effectively canceling the ordinance. At year's end legislation had not been enacted.

The quasi-independent Israel Broadcast Authority controls television Channel 1 and Kol Israel (Voice of Israel) radio; both are major sources of news and information. The Second Television and Radio Authority, a public body, supervises the 2 privately owned commercial television channels and 14 privately owned radio stations. On February 2, the authority prohibited advertisements for the so-called Geneva Accords in which Palestinian public figures told Israelis, among other points, "You have a partner for a peace agreement." The authority claimed that its regulations on television commercial ethics prohibited it from airing commercials on "controversial issues." Three cable and one satellite television companies carry both international networks and shows produced for the domestic audience.

The law authorizes the government to censor on national security grounds any material reported from the country or the occupied territories regarded as sensitive. An agreement between the government and media representatives provides for military censorship only in cases involving issues that the armed forces believe could likely harm the country's security interests. Media organizations may appeal the censor's decision to the high court, and they cannot be closed by the military censor for censorship violations. The military censor cannot appeal a court judgment. Foreign journalists must agree to submit sensitive articles and photographs to the military censor. In practice they rarely complied; however, the censor generally reviewed such material after the fact. On March 23, the major daily *Ha'aretz* published an apology for not submitting to the censor two December 2004 articles on military high technology sales to China. Channel 2 was called to a tribunal on the same issue and forced to apologize. In March the BBC also apologized to the government for ignoring a requirement to submit for censorship review an interview with Mordechai Vanunu when the government refused to renew the visa of the BBC Jerusalem deputy bureau chief without an apology.

News printed or broadcast abroad may be reported without censorship. There were no recent reports that the government fined newspapers for violating censorship regulations.

The government generally respected academic freedom and access to the Internet. In September 2004 Adalah petitioned the high court to prohibit ISA intervention in the appointment of educators in the Ministry of Education (MOE) Arab Education Division. On July 22, according to Adalah the government informed the high court that it would abolish the MOE ISA position for vetting Arab school teachers and administrators. On August 8, Adalah formally asked the MOE whether ISA officials served in the MOE in any capacity. According to Adalah as of year's end, the ministry had not responded.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Throughout July the government, citing security concerns, prevented thousands of demonstrators from rallying close to the Gaza Strip to protest the government's decision to withdraw from Gaza and four settlements in the West Bank.

On December 15, Adalah filed complaints with the PID against border policemen for allegedly using excessive force against a demonstration in the Bedouin community of Al-Mashash on November 15. The demonstration and ensuing police raid were prompted when government officials arrived in the Negev village to deliver

demolition orders for illegally constructed buildings. According to Adalah, 12 protesters, including a pregnant woman, were injured during the clashes.

*Freedom of Association.*—The law provides for the right of association, and the government generally respected this provision in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The Basic Law and Declaration of Independence recognize the country as a “Jewish and democratic state,” establishing Judaism as the country’s dominant religion. Government allocations of state resources favor Orthodox Jewish institutions.

The law confers recognition on some religious communities, granting them legal authority over their members in personal status matters, such as marriage and divorce. These communities include: Eastern Orthodox; Latin (Roman Catholic); Gregorian-Armenian; Armenian-Catholic; Syrian (Catholic); Chaldean (Uniate); Greek Catholic Melkite; Maronite; Syrian Orthodox; and Orthodox Jewish. Since the founding of the country, the government has recognized three additional religious communities—the Druze in 1957, the Evangelical Episcopal Church in 1970, and the Baha’i Faith in 1971. The government has defined the status of several other Christian denominations by means of individual arrangements with government agencies. According to the government, there were no religious denominations awaiting recognition during the year.

Several religious communities are not recognized, including Protestant groups; however, unrecognized communities may practice their religion freely and maintain communal institutions, but were ineligible to receive government funding for religious services.

According to government figures, during the year the budget for religious services and religious structures for the Jewish population was approximately \$260 million (1.19 billion NIS). Religious minorities, which comprised approximately 20 percent of the population, received about \$13 million (61 million NIS), or 5 percent of total funding. At least \$209 million (960 million NIS) of the budget for Jewish religious services and education went toward Orthodox services, rabbis’ salaries, and education.

The fact that the government does not explicitly codify recognition of a Muslim community is a vestige of the Ottoman period, when Islam was the dominant religion. Lack of codified recognition did not affect the religious rights of Muslims. Legislation enacted in 1961 afforded Muslim courts exclusive jurisdiction in matters of personal status concerning Muslims. Secular courts have primacy over questions of inheritance, but parties, by mutual agreement, may bring cases to religious courts. Muslims also can bring alimony and property division matters associated with divorce to civil courts.

Under the Law of Return, the government grants citizenship and residence rights to Jewish immigrants and their immediate family members. On March 31, the high court ruled that, for the purpose of conferring citizenship rights, the government must recognize non-Orthodox conversions of noncitizen legal residents that were begun in Israel but formalized abroad by acknowledged Jewish religious authorities, even if not Orthodox. In May 2004 the high court held that non-Jews who immigrate to the country and convert according to Orthodox requirements can become citizens under the Law of Return. The court let stand the state’s practice of not recognizing conversions to Judaism performed within the country by non-Orthodox rabbis. On November 29, the Israel Religious Action Center challenged this practice in court. The case was pending at year’s end.

In December 2004 ACRI released a report charging that the interior ministry’s population authority sought to prevent non-Jews—particularly spouses of Israeli citizens—from obtaining resident status. ACRI charged that the interior ministry’s population registry subjected non-Jewish spouses and non-Jewish adopted children of Jewish immigrants to unfair and at times arbitrary requirements for residency. Most cases involved persons who immigrated under the Law of Return from the former Soviet republics and their non-Jewish spouses and non-Jewish adopted children. In August 2004 the interior minister acknowledged the problems and changed selected policies. On April 4, Prime Minister Sharon established an interministerial committee to draft legislation outlining guidelines by which foreigners might become citizens. At year’s end the interministerial committee had not taken action. According to the May 11 edition of the daily *Ha’aretz*, “There is broad agreement in the government and academia that the policy must be strict and make it difficult for non-Jews to obtain citizenship in Israel.”

Many Jewish citizens objected to exclusive Orthodox control over aspects of their personal lives. Approximately 300 thousand citizens who immigrated either as Jews or as family members of Jews are not considered Jewish by the Orthodox Rabbinate.

They cannot be married, divorced, or buried in Jewish cemeteries within the country. Jews who wish to marry in Reform, Conservative, or secular ceremonies must do so abroad. According to Central Bureau of Statistics figures released in March, over seven thousand citizens married abroad in 2002. In April the high court instructed the government to inform it within three months of its position on recognizing marriages performed by officials of foreign embassies in the country; however, at year's end the government had not responded. A 1996 law requiring the government to establish civil cemeteries has not been implemented adequately.

Non-Orthodox Jews faced greater difficulties than Orthodox Jews in adopting children. In December 2004 upon petition of the Israeli Religious Action Center, the high court ordered the government to justify the practice under which the Adoption Service of the social affairs ministry placed non-Jewish children only in Orthodox Jewish homes. At year's end the case remained pending.

Muslim groups complained that the government does not equitably fund the construction and upkeep of Muslim holy sites in comparison to that of Jewish Orthodox sites. They also charged that the government was reluctant to refurbish mosques where there was no longer a Muslim population and allowed mosques to be used for nonreligious purposes.

The 1967 Protection of Holy Sites Law protects all holy sites, but the government has issued implementing regulations only for Jewish sites. In November 2004 Adalah petitioned the supreme court to compel the government to issue regulations to protect Muslim sites; it charged that the government's failure to implement regulations had resulted in desecration and conversion of individual sites. The court accepted the petition and ordered the government to respond by January 1, 2006.

AAHR reported in December 2004 that some 250 non-Jewish places of worship were destroyed during or since the 1948 war or made inaccessible to Israeli Arabs. For example, AAHR reported that in June highway construction desecrated an Islamic cemetery located near the Israeli-Arab village of Fardis. AAHR subsequently reported that following a meeting between Fardis community residents and the highway planners, construction was halted to avoid continued damage to the cemetery.

According to representatives of Christian institutions, visa issuance rates for Christian religious workers significantly improved from rates in previous years. The interior ministry's Christian Department reported that it had approved most of the three thousand applications made by clergy during the year.

The Knesset has not ratified the Fundamental Agreement establishing relations between the Holy See and Israel negotiated in 1993. Representatives of the government and the Holy See met several times during the year seeking to reach an agreement on tax, economic, and legal matters. The negotiations addressed the continuation of tax exemptions for Roman Catholic institutions and property (churches, monasteries, convents, educational, and social welfare organizations) and the access of the institutions to Israeli courts. Under current Israeli law, property disputes involving religious institutions are handled by the executive branch of the government. At year's end negotiations continued.

During the year there were reports that airport immigration officials denied entry to non-Jews with mutilated or expired passports; however, officials permitted Jews with damaged or expired travel documents to enter.

On July 7, the Messianic congregation in Arad published a letter in *Iton HaTzvi* that reported harassment by members of an ultra-Orthodox community. On September 12, the high court heard a petition by ultra-Orthodox Jews seeking the right to demonstrate at the house of a family of Messianic Jews and reversal of a police decision prohibiting such a demonstration. At year's end there was no further information on a court ruling. According to Messianic Jews resident there, since April 2004 the Gur Hassidim have demonstrated regularly in front of the homes of Christians and Messianic Jews in Arad to protest alleged proselytizing by this group.

On December 24, a foreign observer reported that a group of approximately 200 ultra-Orthodox Jews disrupted the religious service of a Messianic congregation in Be'er Sheva. According to the account, the group pushed and slapped the congregation's pastor and damaged property. The mob harassed members of the congregation attempting to escape, surrounding their vehicle and trying to overturn it. Police dispersed the mob, allowing congregation members to escape. On December 26, the foreign observer filed a report with the Be'er Sheva police.

Missionaries were allowed to proselytize, although the Church of Jesus Christ of Latter-day Saints voluntarily refrained from doing so under a longstanding agreement with the government.

*Societal Abuses and Discrimination.*—Between February 10 and 12, Druze rioters damaged or burned dozens of Christian businesses, homes, and cars in the northern village of Mughar after a Druze falsely claimed that Christian youths placed porno-

graphic pictures of Druze girls on the Internet. The rioters also damaged a Melkite Catholic church. At least a dozen persons were reported injured; many Christians fled Mughar and refused to allow their children to return to school for weeks. Druze religious leaders denounced the riots, and Christian community representatives criticized the government for not responding more quickly. In June the government announced the allocation of \$2 million (9.2 million NIS) in state funds to compensate residents for property damaged during the riots. At year's end according to legal representatives of the families, no compensation had been distributed. On September 29, the PID decided not to try four police officers for failing to prevent the attacks and closed the cases against them.

During police and ISA operations in April and May, police arrested and released nine Israeli Jews on suspicion of planning attacks on mosques on the Temple Mount in Jerusalem. The police did not press charges.

On September 5, a young religious Jew spat at Greek Orthodox priests in Jerusalem. The perpetrator was arrested, fined, and banned from the Old City of Jerusalem for 30 days. Incidents occurred in which ultra-Orthodox Jews threw rocks at motorists to protest their driving on the Sabbath.

On August 19, police arrested Shimon Ben Haim and Victoria Shteinman for desecrating a Muslim holy site by throwing a pig's head, wrapped in a Keffiyeh with "Mohammed" written on it, into the courtyard of a mosque near Tel Aviv. On September 4, Ben Haim was indicted for insulting a religion and Shteinman as his accomplice. A Tel Aviv court released both on bail pending trial; however, at year's end the trial had not begun.

Neo-Nazi graffiti were sprayed on monuments and gravesites of several well-known Israeli historical figures. In May swastikas and graffiti comparing Prime Minister Sharon to Adolf Hitler were sprayed on the road into the Yad Vashem Holocaust museum. In June police began investigating two IDF soldiers caught participating in neo-Nazi ceremonies.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice for citizens. (See annex for discussion of restrictions on movement within the occupied territories, between the territories and Israel, and the construction of a security barrier.)

Citizens generally were free to travel abroad and to emigrate, provided they had no outstanding military obligations and no administrative restrictions. The government may bar citizens from leaving the country based on security considerations.

Pursuant to the terms of his release after having served 18 years in prison on espionage and treason charges (see section 2. a.), Mordechai Vanunu continued to be prohibited from obtaining a passport, traveling outside Israel, going within 500 meters of airports and overland border crossings, and entering any foreign diplomatic offices. On April 19, the interior minister extended these prohibitions for another year. In May the Jerusalem District Court ruled that Vanunu could travel to the West Bank since such travel did not entail going abroad. On November 18, police arrested Vanunu at a Jerusalem checkpoint after he returned from a Jerusalem suburb; police reportedly claimed that he violated his restrictions. At year's end Vanunu's case continued.

Throughout July police, citing security concerns, barred demonstrators opposed to the evacuation of settlements from traveling to rallies in the Gaza Strip. Several local civil rights NGOs criticized the government for impeding citizens' rights to travel and to assemble.

In May 2003 Sheikh Raed Salah, leader of the Northern Branch of Israel's Islamic Movement, was arrested for allegedly providing funds to terrorist groups (see section 1.e.). In February Salah accepted a plea bargain which dropped several charges; he received credit for time served and was released in July. As a condition of release, he was prohibited from entering Jerusalem without police permission for four months.

Citizens, including dual nationals, must enter and leave the country using their Israeli passports only. In addition no citizen is permitted to travel to countries officially at war with Israel without government permission.

The 2003 Citizenship and Entry into Israel Law bars Palestinians from the occupied territories from acquiring residence or citizenship rights through marriage to Israelis or to Palestinian residents of Jerusalem. In July the Knesset extended the law until March 2006 and amended it so that Palestinian men aged 35 and older and women aged 25 and older were eligible for Israeli citizenship through family unification. Advocacy groups claimed that, despite the amendment, the law discriminated against Arab citizens and residents (see section 5).

The law prohibits forced exile of citizens, and the government generally respected this prohibition in practice. In May the media reported that police advised Sheikh Kamel Khatib, deputy chairman of the Islamic Movement's Northern Branch, that his participation in a London conference on the Palestinian right of return would be illegal, since agents hostile to Israel allegedly organized the conference. Khatib did not attend the conference. According to the media, Khatib said that police told him that he would be subjected to detention or an unspecified harsher measure upon his return.

*Protection of Refugees.*—The government provides refugees the protections available under the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and had established a system whereby persons can apply for refugee status. Palestinians were considered to be protected by the UN Relief and Works Agency for Palestine Refugees and, therefore, not eligible for refugee status.

The government cooperated with the Office of the UNHCR and other humanitarian organizations in assisting Jewish refugees. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 protocol. The government provided temporary humanitarian protection to persons from "conflict countries" in Africa.

The UNHCR referred eligible refugee applicants to the National Status Granting Body (NSGB), and the interior ministry made final adjudication. The Tel Aviv University Refugee Rights Clinic charged that the NSGB's procedures were not transparent, that the NSGB did not publish data on its activities, and that applicants denied status often were not given a reason.

The government did not return those denied refugee status to their home countries against their will, and they reportedly could remain in detention facilities for months. For asylum seekers from countries with which Israel was at war, the government attempted to find a third country to accept them. The government provided asylum seekers with temporary work permits but not social benefits. Persons granted refugee status received renewable temporary visas.

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

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

*Elections and Political Participation.*—The country is a parliamentary democracy with an active multiparty system. Relatively small parties, including those primarily supported by Israeli Arabs, regularly win Knesset seats. The Likud Party led by Ariel Sharon won a plurality of Knesset seats in January 2003; Sharon formed a government in which he became prime minister. On November 21, Sharon requested the president to dissolve the Knesset, citing difficulties in maintaining a governing majority, and announced that he was leaving the Likud Party. On November 24, Sharon established a new party, *Kadima* ("move forward"). The president set elections for March 28, 2006. On December 29, pursuant to presidential decree, the Knesset was dissolved.

The Basic Law prohibits the candidacy of any party or individual that denies either the existence of the State of Israel as the state of the Jewish people or the democratic character of the state, or that incites racism.

In May 2004 the Knesset amended the law to require that a party obtain 2 percent rather than 1.5 percent of the vote to win Knesset seats. Israeli-Arab leaders criticized the amendment and claimed that it would adversely affect smaller parties, such as those representing the Israeli-Arab community.

The 120-member Knesset has 18 women members. The 20-member cabinet included 3 women until November, when the Labor Party resigned from the government, taking 1 woman minister. Six women sit on the 14-member high court. The Knesset included 11 Arabs and 2 Druze. Most of the 11 Arabs represented parties supported largely or entirely by the Arab community. In March 2004 for the first time since the establishment of the state, an Arab Christian was appointed as a permanent justice to the high court. No Muslim or Druze citizens have served on the court.

On July 20, the government amended the 1956 Equal Representation of Women law to mandate the inclusion of women in government-appointed teams for peace negotiations and for setting domestic, foreign, and security policy.

In March 2004 the state comptroller discovered 2,298 citizens who, if alive, would have been age 110 or over, but appeared on the electoral rolls, and some were identified as having recently voted. The comptroller recommended an investigation. The government established an interministerial committee to prepare a computerized procedure to avoid future problems. In addition, following the government's cross-

reference of names between ministerial databases, some 9 thousand residents over 100 years old were declared dead by the Population Registry.

*Government Corruption and Transparency.*—Corruption was considered a problem by many Israelis.

In July the Knesset established the Parliamentary Investigation Committee to Uncover Corruption in the Governing System but disbanded it in December to avoid politicizing the committee prior to the March 28, 2006, elections.

The Labor Party continued to investigate allegations that, during the party's May membership drive, party activists forged voter registration forms. In November the party voided thousands of questionable signatures and deleted them from the voter registration list.

The attorney general continued to review Prime Minister Ariel Sharon's connections to the "Cyril Kern Affair," in which Kern allegedly acted as a conduit for or source of illegal funding that Sharon used to refund earlier illegally obtained campaign contributions. At year's end the case was still under investigation. On November 16, Omri Sharon, Prime Minister Sharon's son and a member of the Knesset, pleaded guilty to lying under oath and falsifying company financial records to conceal illegally raised funds in conjunction with his father's 1999 campaign in the Likud party primaries.

In July 2004 the prime minister dismissed Minister of Infrastructure and Knesset Member Josef Paritzky from the cabinet after Channel 1 Television broadcast a tape of Paritzky allegedly plotting with a private detective to defame a party rival. On January 17, the state attorney closed the case against Paritzky. He found no legal basis for criminal charges but harshly criticized Paritzky's behavior. Paritzky continued to serve in the Knesset.

In September 2004 Knesset Member Tzachi Hanegbi was suspended from his post as minister of public security pending a criminal investigation into allegations of inappropriate political appointments while serving as environment minister from 2001–03. On December 7, the police recommended that the attorney general indict Hanegbi for irregular political appointments. At year's end Hanegbi continued to serve as minister-without-portfolio while the attorney general continued to consider the case.

The law affords the public access to government information, and citizens could petition for such access. According to the ACRI and the Movement for Quality in Government (MQG), an NGO that investigates corruption and nontransparency issues, the government does not effectively implement its freedom of information act. The MQG charged that it had difficulty obtaining information from the government, notably on the budget and privatization.

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

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

NGOs must register with the government by submitting an application and paying approximately \$20 (85 NIS). They operated under the laws covering nonprofit organizations. Registered NGOs received state funding as a matter of government policy. Israeli Arab NGOs have complained in recent years of difficulties in registering and receiving state funding.

In 2003 the foreign affairs ministry established a liaison unit to develop and maintain relations with international and domestic NGOs, assist domestic NGOs to participate in UN and other international forums, and facilitate visits to the country by international NGO representatives.

During the year the interior ministry, operating under a 2002 order, barred entry to all foreign nationals affiliated with certain Palestinian human rights NGOs and solidarity organizations.

(See annex regarding NGOs in the occupied territories.)

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

The law prohibits discrimination on the basis of race, gender, marital status, political beliefs, or age. These laws sometimes were not enforced, either due to institutionalized discrimination or to lack of resources. On September 7, then interior minister Ophir Pines-Paz termed the country's policy toward its Arab citizens "institutional discrimination" and called for affirmative action.

*Women.*—The Equality of Women Law provides for equal rights for women and protection from violence, sexual harassment, sexual exploitation, and trafficking; however, violence against women was a problem. The government reported that be-

tween January 1 and October 6, some 15 thousand cases of spousal violence were filed with the police. Police addressed about 20 thousand domestic violence cases a year, of which approximately 17 thousand were complaints by women against their spouses. The government reported that in 2004 it convicted 1,297 persons of spousal abuse. The social affairs ministry provided battered women with shelter care and operated a national hot line for battered women. The government reported that the police operated a nationwide computerized call center to inform victims about their cases and employed a computerized database to link sex crime cases and to assist in identifying and locating offenders. The IDF and the Military Police Investigative Unit accepted reports on domestic violence where the suspect was likely to carry an IDF-issued weapon. A wide variety of women's organizations and hot lines provided services, such as counseling, telephone crisis intervention, legal assistance, and shelters to abused women.

Rape is illegal; nevertheless, NGOs considered the incidence of rape a concern. Crisis hot line rape reports rose by 15 percent during 2004, according to the annual report of the Association of Rape Crisis Centers in Israel released in February. According to police, the incidence of rape in Tel Aviv rose 27 percent in 2004.

In past years women's organizations reported instances of Arab women killed by male relatives in "honor" cases, although there is no accurate estimate of the number. The Women Against Violence Organization (WAVO), reported that at least nine Israeli-Arab women were victims of honor killings during the year and estimated that annually an average of 10 Israeli-Arab women were victims of family honor killings. Police suspected that family members killed an Israeli-Arab woman from the town of Ramle on January 1 because she disgraced the family. At year's end the case was pending. In July police investigated a case in which a man and a woman, both Israeli Arabs, were shot and killed. Police suspected that the killing involved family honor, as the victims were not married but lived together. Police ordered an investigation; however, at year's end the case was pending.

On October 22, police found a Druze woman hanging from a tree and charged three members of her family, including her father, with murder. The police suspected that male family members killed her for disgracing the family. According to WAVO the local community alleged that the police arrested the wrong persons and that evidence pointed elsewhere. At year's end police investigation continued.

On December 17, police arrested two brothers from the Israeli Arab town of Mughar after they confessed to killing their sister ostensibly to preserve their family's honor. On December 19, they were arraigned in the Acre Magistrate's Court on murder charges. At year's end the case was pending.

On May 19, unknown perpetrators burned a textile workshop in the Negev region Bedouin town of Lakia operated by a volunteer association to improve the status of women. The association suspected that community men who objected to women working outside the home set the fire. At year's end police continued to investigate, but no arrests were made.

Prostitution is not illegal. The law prohibits operation of brothels and organized sex enterprises, but brothels operated in several major cities.

The Prevention of Stalking Law and the Prevention of Family Violence Law require that suspected victims be informed of their right to assistance. According to a government report submitted to a UN committee on May 29, since 2002, 2,946 requests for restraining orders were submitted to the courts based on this law, rising from 472 cases in 2002 to 1,307 cases in 2004. In a March report to the UN Session of the Commission on the Status of Women, several women's NGOs stated that approximately 130 thousand women in the country between the ages 25 and 40 had been sexually harassed in the workplace. During the period between January 1 and October 1, the police opened 158 cases involving sexual harassment, and 137 of those were forwarded for prosecution.

The law provides for class action suits and requires employers to provide equal pay for equal work; however, significant wage gaps remained. According to a March publication by the Central Bureau of Statistics, women earned 83 percent as much as men, and women executives earned 74 percent as much as their male counterparts.

Religious courts adjudicate personal status law, and these courts restricted the rights of Jewish and Muslim women. Jewish women are not allowed to initiate divorce proceedings without their husbands' consent. Consequently, thousands of so-called *agunot* may not remarry or have legitimate children because their husbands either disappeared or refused to grant divorces. Rabbinical tribunals may sanction husbands who refuse to divorce wives, but may not grant a divorce without his consent. A Muslim woman may petition for and receive a divorce through the Shari'a courts without her husband's consent under certain conditions, and may, through a marriage contract, provide for certain cases where she may obtain a divorce with-

out her husband's consent. A Muslim man may divorce his wife without her consent and without petitioning the court.

*Children.*—The law provides for the overall protection of children's rights and welfare, and the government was generally committed to ensuring enforcement of these laws. The government has continued to legislate against sexual, physical, and psychological abuse of children and has mandated comprehensive reporting. There were five shelters for children at risk of abuse.

According to a report issued by the National Council for the Child, the number of reported cases of child abuse and neglect has risen by 130 percent in the last decade. The report stated that approximately 39 thousand children were abused in 2004, compared with 16,800 in 1995. According to a police report released to a Knesset committee in December, children constituted more than 50 percent of the sexual offenses victims each year.

On August 8, the National Insurance Institute's annual report stated that approximately a third of the country's children lived in poverty, and the number of poor children grew by 9.4 percent in 2003. The 2004 report of the Israeli-Arab advocacy NGO Sikkuy (the Association for the Advancement of Civic Equality in Israel) stated that 45 percent of Arab families were poor (in contrast to 15 percent of Jewish families), and Arab children were twice as likely to die in infancy as Jewish children. A health ministry report released on August 25, recorded infant mortality among Negev region Bedouin at 15 per 1,000 births.

Education is compulsory through the ninth grade. The government operated separate school systems for Hebrew-speaking children (mostly Jewish), Arabic-speaking children (mostly Israeli-Arab), and Orthodox Jews. However, government spending on and services for children was less in Arab areas than in Jewish areas. According to a study at Hebrew University, three times as much money was invested in Jewish children as in Arab children. Human Rights Watch reported in May that the government provided 1 teacher for every 16 Jewish primary school children compared to 1 teacher for every 19.7 Arab children.

During the year the education ministry stated that it was implementing some reforms in nine unspecified Arab localities, as recommended by the government's 2004 National Task Force for the Advancement of Education in Israel (the Dovrat Commission).

In December 2004 the Dovrat Committee also issued recommendations affecting ultra-Orthodox schools. Ultra-Orthodox political parties, such as United Torah Judaism, opposed government interference in its school system. The only nonpublic schools receiving government funding were ultra-Orthodox Jewish schools. State subsidized ultra-Orthodox religious schools have not complied with the requirement for all state-funded schools to teach core subjects such as mathematics. In December 2004 the high court ruled that they must comply by the opening of the 2007 school year or lose official funds.

In August Adalah filed a petition with the Tel Aviv District Court against the Municipality of Lod and the MOE, following their refusal to register an eight-year-old Arab child in a Jewish elementary school in Lod. The municipality and MOE argued it was better for the child to attend an Arab school. In response to a September 4 court order, the municipality registered the boy in the Jewish school and Adalah withdrew its petition.

Jewish children attended schools where the language of instruction was Hebrew and the curriculum included Jewish history. Israeli-Arab children, almost without exception, chose schools with instruction in Arabic in which the curriculum had a less Jewish focus. Israeli-Arab advocacy groups charged that the education of Arab children was inferior to that of Jewish children in the secular system. According to the Higher Follow Up Committee for Arab Affairs, there was a five thousand-classroom shortage in the Arab sector. The civic equality NGO Sikkuy stated in its 2003–04 report that approximately half of age 15 and older non-Jewish Israelis did not have a high school education, compared with one fifth of Jewish Israelis.

According to an Israeli-Arab advocacy group, 21.5 percent of Jews begin university studies compared with 11.5 percent of those defined as "members of other religions," mostly Arabs. Arab Knesset members have criticized the lower academic achievements of Arab students and charged that it indicated discrimination in the system. Preschool attendance for Bedouin children was the lowest in the country, and the dropout rate for Bedouin high school students was the highest.

The minimum legal age of marriage is 17 for both boys and girls. According to the NGO Israel National Council for the Child, marriage under age 17 occurred among minority groups, such as Muslims, certain ultra-Orthodox Jewish groups, and new immigrants from Ethiopia and from Islamic states in the former Soviet Union.



In February 2004 Elem, an NGO that assists troubled youth, estimated that more than a thousand women younger than age 18 worked as prostitutes.

*Trafficking in Persons.*—The law prohibits only trafficking in women for the purpose of sexual exploitation; however, trafficking for the purpose of labor as well as for prostitution remained a serious problem. The penal code stipulates that coercion to engage in prostitution is a criminal offense, punishable by between 4 and 20 years imprisonment, and makes it a crime to induce a woman to leave the country to “practice prostitution abroad.” The operation of brothels and “organized sex enterprises” is illegal.

The law guarantees foreign laborers legal status, decent working conditions, health insurance, and a written employment contract; however, some employers forced individual laborers who entered the country, both legally and illegally, to live under conditions that constituted trafficking. While law enforcement agencies have successfully prosecuted employers for labor law violations, including for violations that were tantamount to trafficking, they have not severely penalized labor agencies for trafficking because legislation does not make trafficking illegal if it is for purposes other than prostitution. There were numerous documented cases of foreign laborers living in harsh conditions, subjected to debt bondage, and restricted in their movements.

Organized crime groups trafficked women, primarily from the former Soviet Union, sometimes luring them by offering service sector jobs. Foreign workers came mainly from Southeast Asia, East Asia, Africa, Turkey, Eastern Europe (Romania), and South and Central America. Some traffickers reportedly sold foreign-origin women to brothels, forced them to live in harsh conditions, subjected them to beatings and rape, and forced them to pay for transportation costs and other “debts” through sexual servitude. According to local NGOs, during the year traffickers brought between one thousand and three thousand women into the country for prostitution. The government reported that during the year, 59 trafficked women resided in the “Maggan” Shelter, and an additional 128 trafficking victims stayed in the detention facilities. The government estimated that at least 682 more women met the basic criteria to be classified as cases of trafficking victims even if they did not so admit.

In October, 2 NGOs claimed there were 200 thousand foreign workers in the country and that 20 percent of these workers were trafficking victims. During the year the Ministry of Industry, Trade, and Labor (ITL) revoked 185 permits to hire foreign workers, opened 1,220 files against employers suspected of violating foreign worker employment laws, and imposed 8,356 administrative fines on employers. Also during the year, the ITL filed 208 criminal indictments against employers, including manpower companies, for violations of labor laws and won 38 judgments against violators.

The government did not strengthen laws to fight trafficking. In 2003 the government established a Border Police unit to combat smuggling of persons and drugs across the border with Egypt. During the year this special unit caught 345 Israelis and foreign nationals infiltrating into the country, including 45 women trafficked for prostitution or smuggled for housework. A 2003 law provides minimum sentencing requirements for convicted sex traffickers. During the year the police arrested 78 people for trafficking in persons for the purposes of prostitution and related offenses; the state detained 18 suspects without bail until the conclusion of their trials. Police officials attributed the lack of major arrests and a decrease trafficking arrests at the border to their heightened activity over the past two years.

Courts imposed tougher sentences for trafficking in women than previously, but these sentences remained significantly lighter than the maximum allowable prison sentence of 20 years. On average since the Knesset passed the antitrafficking law in 2000, judges have sentenced traffickers to six years in prison with a two-year suspended sentence. The government has typically awarded compensation to trafficking victims of less than 10 percent of the permitted maximum compensation of approximately \$50 thousand (230 thousand NIS).

The government investigated allegations of misconduct and corruption by individual police officers, including taking bribes, tipping off brothels of raids, and sexually harassing trafficking victims. During the year 2 NGOs surveyed 106 trafficked women, 44 percent of whom claimed that policemen patronized their brothel. The government claimed to have received no reports during the year regarding officials who participated in, facilitated, or condoned trafficking in persons; it made no arrests, and issued no indictments or prosecutions for this offense.

The justice ministry set a guideline that investigations of complaints by foreign workers should be concluded within 45 days. When prosecutors gathered sufficient evidence for indictment, they filed the indictment through an accelerated procedure to ensure that the proceedings will be effective even if the foreign worker left the

country. In a recent case against police officers convicted of sexual crimes with a foreign worker, the supreme court accepted the appeal of the prosecution and increased a sentence from 24 to 42 months in prison. In another case a police officer was convicted of demanding sexual favors from a woman that he threatened to arrest and deport if she did not comply. He had not been sentenced as of October.

The 50-person-capacity government-run shelter for trafficking victims was often filled to capacity; NGOs claimed that additional shelters were needed. According to the government, during the year 108 trafficking victims chose to testify, compared with 81 victims in 2003. The government transferred 46 women to the government-run shelter, 36 of whom agreed to testify against their traffickers. In 2003 the state attorney's office, the police, and the Knesset urged the courts to accelerate hearing testimony from trafficking victims; the law stipulates that testimony must be taken within 2 months of the indictment of suspected traffickers, but there were victims who waited as long as 18 months. According to the government, between January and October, in all districts victims waited an average of two months from the time of filing the indictment until the first court hearing.

The government has not drafted an antitrafficking plan. Although it approved funding in May for an interministerial coordinator to combat trafficking in persons, at year's end it had not appointed a coordinator or provided funding for an assistant. The government and an NGO cooperated to train judges who preside over deportation hearings. In October the government formed an interministerial team to address issues relating to trafficking in persons for the purposes of both prostitution and labor. It met three times between October and January and included representatives from the ministries of foreign affairs, justice, interior, industry trade and labor, social affairs, the police, and the immigration administration. Also with assistance from NGOs, the government distributed brochures through its embassies in such source countries as Moldova and Uzbekistan, warning potential victims of the threat. The NGOs associated with this process claimed that the number of brochures was insufficient to reach potentially vulnerable foreigners.

As a result of coordinated international police efforts during the year, several governments extradited individuals to Israel on charges of trafficking in persons. For example, Russian officials extradited Israeli national Shota Shamelashvili, where at year's end he was on trial for trafficking in persons. Also, Ukrainian officials extradited Sergey Matatov, where at year's end he was on trial for trafficking in persons. Likewise, as a result of joint investigations, Israeli and Belarussian officials arrested several suspected members of two criminal groups that trafficked women from Belarus to Israel.

*Persons with Disabilities.*—The government provided a broad range of basic benefits for persons with disabilities. The law provides for protection and equality of the rights of persons with disabilities. Persons with disabilities continued, however, to encounter difficulties in areas such as employment and housing. According to the government, the Commission for Equal Rights of People with Disabilities, within the justice ministry, addressed some 500 discrimination cases, mainly in the areas of accessibility and employment. On March 22, the government enacted a law to require greater building and public area access for persons with disabilities. However, the government did not enforce a previous law primarily due to a lack of funding. Accessibility to public transportation was not mandated by law.

In May the government voted to adopt proposals submitted by a government committee to promote the integration of persons with disabilities into society.

*National/Racial/Ethnic Minorities.*—The 2003 report of the Orr Commission, which was established following the police killing of 12 Israeli-Arab demonstrators and a Palestinian in October 2000 (see section 1.a.), stated that government handling of the Arab sector was “primarily neglectful and discriminatory,” was not sufficiently sensitive to Arab needs, and that the government did not allocate state resources equally. Consequently, “serious distress prevailed in the Arab sector . . .,” including poverty, unemployment, a shortage of land, serious problems in the education system, and substantially defective infrastructure. Problems also existed in the health and social services sectors.

In June 2004 the government adopted an interministerial committee's proposals to act on some of the Orr Commission's findings, including: establishment of a government body to promote the Arab sector; creation of a volunteer, national civilian service program for Arab youth; and the creation of a day of national tolerance. At year's end the government implemented neither these proposals nor the original Orr Commission recommendations. On September 18, the PID closed the investigation into the police killings in the October 2000 riots; however, on September 28, the attorney general and the PID decided to reexamine the investigation (see section 1.a.). At year's end there had been no further action.

In December 2004 the Knesset established a subcommittee, chaired by an Israeli-Arab member, charged with monitoring needs of the Israeli-Arab sector and advocating alterations in the budget to benefit that sector. The subcommittee met during the year, but, according to Mossawa, the government's response to the subcommittee's queries was inadequate.

According to 2004 reports by Mossawa and the Arab Association for Human Rights, racist violence against Arab citizens has increased, and the government has not acted to prevent this problem. Advocacy groups charged government officials with making racist statements.

In June 2004 the Jerusalem District Court filed six indictments for incitement to racism against fans of a local soccer team for shouting "death to the Arabs" at a soccer match. According to Mossawa fans engaged in similar anti-Arab behavior at soccer matches in September, but the police did not make arrests. In a January 10 letter to the Israel Football Association (IFA), Mossawa charged that the IFA had not acted to prevent racist activities at matches. In a March 7 letter responding to Mossawa's concerns, Mossawa reported that the group pledged to work against racism, but Mossawa has claimed that the IFA has still not taken actions to address this problem.

In March a Dahaf Institute poll of Israeli Jews found 59 percent of those polled agreed or tended to agree that the state should encourage Israeli Arabs to emigrate. On September 21, a major local newspaper published a column whose author advocated that the country encourage its Arab citizens to emigrate.

Approximately 93 percent of land in the country is public domain, the majority of which is owned by the state, with approximately 12.5 percent owned by the Jewish National Fund (JNF). All public lands and that owned by the JNF are administered by the governmental body, the Israel Lands Administration (ILA). By law public land may only be leased, and the JNF's statutes prohibit land sale or lease to non-Jews. In separate petitions to the high court in 2004, Adalah and civil rights groups sought, among other points, nondiscriminatory procedures for allocating and leasing land. In January the attorney general ruled the government cannot discriminate against Israeli Arabs in marketing and allocation of lands it manages, including lands the ILA manages for the JNF. Adalah criticized the attorney general, however, for also deciding that the government should compensate the JNF with land equal in size to any plots of JNF land won by non-Jewish citizens in government tenders.

The community of Katzir, a town in the Galilee established by the Jewish Agency, had refused to provide an Israeli-Arab family, the Ka'adans, title to a plot of land despite a 2000 supreme court ruling that the government cannot discriminate against Israeli Arabs in the distribution of state resources, including land. The family petitioned the court again in September 2003 to compel the government to implement the court's 2000 ruling. In May 2004 the ILA allocated the plot of land to the family, who signed a contract on December 19, enabling them to start building their house.

Education ministry regulations required Israeli-Arab contractual or maintenance workers in Jewish educational institutions in Jerusalem to undergo mandatory security checks and to be supervised by a Jewish foreman. After a petition by Adalah, the attorney general ordered in June the cancellation of the regulations; however, at year's end it could not be determined that the regulations were no longer applied.

Israeli-Arab advocacy organizations have challenged the government's policy of demolishing illegal buildings in the Arab sector. They claimed that the government restricted issuance of building permits for Arab communities more than for Jewish communities, thereby limiting Arab natural growth.

In February 2004 security forces demolished several homes in the Arab village of Beineh, claiming that they were built illegally. On April 19, Adalah appealed to the attorney general requesting that he reverse a decision not to indict police officers for alleged assault and property damage involved in the house demolition operation. Adalah claimed that the police investigation was negligent and that it was unreasonable not to indict the police officers. At year's end the appeal remained pending.

In January the government established a new police unit to combat illegal construction and land use. The media reported that the unit will focus on the Israeli-Arab sector and areas surrounding development towns.

The Orr Commission found that "suitable planning should be carried out [in the Arab sector] as soon as possible to prevent illegal construction . . ." A ministerial committee, created to advise the government on implementing the Orr Commission recommendations, called on the ILA to complete master plans for Arab towns, approximately half of which currently lacked such plans. In June 2004 the supreme court ruled that omitting Arab towns from specific government social and economic plans is discriminatory. This judgment builds on previous assessments of disadvan-

tages suffered by Arab Israelis. New construction is illegal in any towns that do not have master plans or in the country's 37 unrecognized Bedouin villages. In September, according to a Bedouin advocacy group (the Regional Council for Unrecognized Villages in the Negev), security forces demolished several Bedouin homes in the unrecognized villages of Al-Zaroora, Al-Bhaira, Al Sir, and Al-Mazra'a.

Israeli-Arab organizations and some civil rights NGOs challenged as discriminatory the 1996 "Master Plan for the Northern Areas of Israel," which listed priorities as increasing the Galilee's Jewish population and blocking the territorial contiguity of Arab towns. The Israeli-Arab organizations presented their objections at a hearing in March 2003, but the National Council for Building and Planning, a government body responsible for developing the master plan, has not responded. To date the government has not implemented this plan.

The Bureau of Statistics noted that the median number of school years for the Jewish population is three years more than for the Arab population. According to data released in September by the Higher Arab Follow-up Committee, the Arab student dropout rate overall was 12 percent and 70 percent at schools in the unrecognized villages in the Negev, compared with 6 percent overall in Jewish schools.

Israeli Arabs also were underrepresented in the student bodies and faculties of most universities, professions, and business. According to Sikkuy's 2003–04 annual report, non-Jews made up 9.8 percent of university undergraduates and Israeli Arabs constituted 1 percent of all lecturers or professors at academic institutions—50 to 70 out of more than 3 thousand. In October an Arab Israeli was appointed for the first time as dean of research at the University of Haifa.

Well-educated Arabs often were unable to find jobs commensurate with their education. A small number of Israeli Arabs hold responsible positions in the civil service, generally in the Arab departments of government ministries. In 2003 the government approved affirmative action to promote hiring Israeli Arabs in the civil service. However, according to current government figures, only 3 percent of civil service employees were from the Arab sector. In November the deputy civil service commissioner reported that Arabs made up only 5.6 percent of the total number of new civil service employees hired in 2004. During a June 21 meeting of the Knesset Internal Affairs Committee, retired Supreme Court Justice Theodore Orr, who headed the Orr Commission, criticized the government for not implementing the affirmative action law.

A 2000 law requires that minorities have "appropriate representation" in the civil service and on the boards of government corporations. In January 2004 Prime Minister Sharon mandated that every state-run company's corporate board have at least one Arab member by August 2004. In June 2004 the media reported that the number of Arabs on state-run corporate boards had declined. According to data from the Government Companies Authority, during the year Arabs filled 50 out of the 551 board seats of 105 state-run companies.

Israeli Arabs complained upon occasion during the year of discriminatory treatment by the state airline. Mossawa reported that, it received complaints from Israeli Arabs of discriminatory treatment at the airport. According to the AAHR, in July two Israeli Arabs were prohibited from taking their laptop computers with them on an El Al flight from Austria to Israel; Jewish passengers were allowed to take their laptops. The Israeli Arabs used a different airline to return to Israel.

The law exempts Israeli Arabs from mandatory military service, and in practice only a small percentage of Israeli Arabs so served. Citizens who did not serve in the army enjoyed less access than other citizens to social and economic benefits for which military service was either a prerequisite or an advantage. Israeli Arabs generally were restricted from working in companies with defense contracts or in security-related fields. In December 2004 the Ivri Committee on National Service recommended that Israel Arabs be given an opportunity to perform national service. By year's end the government had not addressed the Ivri Committee recommendations. Males in the Israeli Druze community, which numbered around 100 thousand, and in the Circassian community, which numbered some 3 thousand, were subject to the military draft, and the overwhelming majority accepted service willingly. Some Bedouin and other Arab citizens not subject to the draft also served voluntarily.

The Bedouin sector of the population was the country's most disadvantaged. The Orr Commission of Inquiry report called for "special attention" to the living conditions of the Bedouin community. Approximately 140 thousand Bedouin lived in the Negev, half in 7 state-planned communities and 8 recognized communities, and the rest in 37 unrecognized villages. During the year the government officially recognized the Israeli-Arab village of Ein Hod in the Carmel area, after village residents had petitioned the government for more than 57 years. Recognized Bedouin villages received basic services but remained among the poorest communities. Unrecognized

villages paid taxes to the government; however, they were not connected to the national water and electricity infrastructure and not eligible for government educational, health, and welfare services. In September ACRI and PHR petitioned the supreme court to require the government to connect a house in an unrecognized Bedouin village to the electrical power lines so a three-year-old suffering from cancer could benefit from air conditioning, as the doctor recommended. At year's end the request remained pending.

In March 2004 the supreme court issued a temporary injunction to prevent the ILA from spraying herbicide on Bedouin crops on state-owned land. According to Adalah the court extended its injunction in October 2004. In February the ILA admitted in an affidavit to the supreme court that it sprayed Bedouin agricultural fields with chemicals that were not approved by the agriculture ministry and banned from aerial spraying. After a November 28 hearing, the case was still pending.

Government planners noted that there were insufficient funds to relocate Bedouin living in unrecognized villages to new townships and that the average Bedouin family could not afford to purchase a home there. Clashes between authorities and residents of unrecognized villages continued during the year.

In July the government extended until March 2006 the 2003 Citizenship and Entry into Israel Law, which bars Palestinians from the occupied territories from acquiring residence or citizenship rights through marriage to Israelis (see section 2.d.). The government also amended the law to allow Palestinian men aged 35 and older and women aged 25 and older to request Israeli citizenship through family unification. In July Adalah petitioned the high court to suspend implementation of the amended law as still discriminatory, and requested a court ruling on Adalah's 2003 challenge to the original law. In November during ongoing supreme court hearings on a petition by civil rights NGOs challenging this law, the government informed the court that since 2001, 25 Palestinian spouses of Arab citizens have been involved in terrorist activity. At year's end the case remained pending.

There are approximately 20 thousand non-Israelis living in the Golan Heights; they have been subject to Israeli military authority since 1967 and to Israeli civil law since Israel annexed this Syrian territory in 1981. They are primarily ethnic Druze; however, Syria regards them as its citizens and they largely have refused Israeli citizenship. Israel accords them permanent resident status; they receive Israeli travel documents and hold identity cards that entitle them to the same social benefits as Israeli citizens. Most obtain these services in Syria. Syrian Golan residents of the Druze confession continue travel to Syria to pilgrimage to the Shrine of Abel, with Israeli permission.

*Other Societal Abuses and Discrimination.*—On March 23, Jewish, Christian, and Muslim religious leaders protested against a gay pride march planned for Jerusalem in June. On June 26, the Jerusalem District Court ordered the Jerusalem municipality to permit the gay pride march. During the June 30 march, an ultra-Orthodox Jew stabbed three participants. Police arrested Yishai Shlifel and charged him with three counts of attempted murder. His trial was scheduled to continue in January 2006. In April unknown arsonists damaged a Jerusalem nightclub catering to homosexuals. According to the Jerusalem Open House for Pride and Tolerance, at year's end police had made no arrests and the investigation had not advanced.

In April the government announced a policy of recognizing same-sex couples with children as a family for purposes of receiving housing aid. The government also did not challenge a 2004 Nazareth District Court decision recognizing same-sex partners for the purposes of inheritance rights.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Citizens may join and establish labor organizations. Most unions belong to Histadrut (the General Federation of Labor in Israel) or to a much smaller rival federation, the Histadrut Haovdim Haleumit (National Federation of Labor), both of which are independent of government. Histadrut's members elect national and local officers, and officials of its affiliated women's organization, Na'amat, from lists of those in the union. Histadrut membership remained approximately 650 thousand, and Histadrut's collective bargaining agreements covered most non-Histadrut workers.

The law does not permit nonresidents, including Palestinians from the West Bank and Gaza, to join Israeli trade unions or organize their own unions in Israel. Protections contained in Histadrut work contracts and grievance procedures extend to non-resident workers in the organized sector. Palestinian participation in shop-level workers' committees was minimal.

Labor laws apply to noncitizens. However, a 2003 amendment to the Social Security Act stipulates that undocumented workers are not entitled to receive certain so-

cial security benefits, including maternity leave and compensation for work-related injuries. The Foreign Workers Act stipulates that foreign workers do not receive National Health Insurance, and that the employers of migrant workers must provide private insurance, which is less comprehensive. In March an amendment to the act requires transfer of severance pay for foreign nationals to a fund that they may access only when their residency permits expire. Currently, this amendment applies only to construction workers, according to the June internal regulations of the industry, trade, and labor ministry.

*b. The Right to Organize and Bargain Collectively.*—Citizens exercised their legal rights to organize and bargain collectively. The law specifically prohibits antiunion discrimination. No antiunion discrimination was reported.

Nonresident workers could not organize unions or engage in collective bargaining but could be represented by the bargaining agent and protected by collective bargaining agreements. Between January and September, the industry, trade, and labor ministry issued 77,639 permits for foreigners to work in the country, most of which, the ministry reported, were assigned. The government estimated non-Palestinian foreign workers, both legal and illegal (between 50 thousand and 70 thousand), comprised 7 to 8 percent of the labor force. Foreign workers must pay an agency fee in lieu of union dues, entitling them to protection by collective bargaining agreements. The ministry extended collective bargaining agreements to nonunionized workplaces in the same industrial sector. The ministry also oversaw personal contracts in the unorganized sectors of the economy which do not offer union protection from, among other possible actions, immediate dismissal without recourse.

Workers exercised the right to strike less frequently than in previous years. If essential public services are affected by a strike, the government may appeal to labor courts for back-to-work orders during continued negotiations. Worker dismissals and the terms of severance arrangements have traditionally been the central issues of disputes. A Histadrut agreement on workers' wages reached early in the year with the government (the largest employer in the country) helped to diminish the number of strikes.

In the most significant strike of the year, more than 100 workers at the transportation company Metrodan in Beersheva struck for 147 days, starting in November 2004. According to Histadrut it was the longest strike in the country's history. Since Metrodan provided all public transportation in the country's largest southern city, the supreme court ultimately addressed the dispute and ruled for the workers and Histadrut.

There are no export processing zones. In December 2004 the government established a Qualified Industrial Zone (QIZ) with Egypt, creating duty-exempt zones for joint Israel-Egypt manufacturing for exports. The government established a comparable QIZ with Jordan in 1998. Since the factories are located in Egypt and Jordan respectively, Egyptian and Jordanian labor laws apply.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and neither the government nor Histadrut received reports that such practices occurred for citizens, residents such as Syrian citizens of the Golan Heights, or nonresident Palestinian workers. Civil rights groups charged that unscrupulous employers exploited adult non-Palestinian foreign workers, both legal and illegal, and held them in conditions that amounted to involuntary servitude (see section 6.e.).

Trafficking in persons for the purpose of prostitution and labor remained a problem (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Children at least 15 years old who have completed their education through grade nine may be employed only as apprentices. Children who are 14 years old may be employed during official school holidays in light work that will not harm their health. Working hours for those between the ages of 16 and 18 are restricted to ensure time for rest and education. The government enforced these restrictions in practice. According to Histadrut the labor ministry responded to complaints about child labor and intervened to stop the practice, but it was not able to monitor the agricultural sector where, Histadrut claimed, children under the age of 15 worked throughout the year.

There was no reliable data regarding the incidence of child labor, although NGOs believed that it occurred to a limited degree, primarily in urban, light industry. Although in previous years, the government, Histadrut, and NGOs received reports of illegal child labor in the undocumented Palestinian population, they did not receive such reports during the year.

*e. Acceptable Conditions of Work.*—The minimum wage was approximately 45.3 percent of the average wage and remained approximately \$900(4,100 NIS) per month for a 40-hour week. The government considered the minimum wage, often

supplemented by special allowances for citizens, to provide a citizen worker and family with a decent standard of living. Some union officials, NGOs, and social commentators disputed this claim.

By law the maximum hours of work at regular pay are 42.5 hours a week.

Employers are required to obtain a government permit to hire Palestinian workers from the occupied territories. All Palestinians from the occupied territories working legally in the country were employed on a daily basis and, unless employed on shift work, were not authorized to spend the night in the country.

Palestinian employees whose Israeli employers recruited them through the labor ministry received their wages and benefits through that ministry. Palestinian workers were not eligible for all National Insurance Institute (NII) benefits although the ministry deducted a union fee and required contributions to the NII. For example they did not receive unemployment insurance, general disability payments, or low-income supplements. Israeli employers directly paid Palestinian employees not employed through the labor ministry; the workers received the same benefits as those paid through the ministry.

According to agreement between the government and the Palestinian Authority (PA), employers paid an "equalization fee" to the Israeli Treasury, in the amount of the difference in cost between employing a (lower paid) foreign worker and an Israeli worker. The government stated that these sums would be forwarded to the PA when it established a national insurance institute.

Since 1993 the government has agreed to transfer the NII fees collected from Palestinian workers to the PA, which was to assume responsibility for all pensions and social benefits of Palestinians working in the country. As a prerequisite to transferring these funds, the PA was to have established mechanisms to provide these services in the PA-controlled territories. Subsequently, government officials have continued to withhold all of the PA payments pending its creation of a social security department to distribute the fees.

Following the outbreak of violence in 2000, the government's closure policy on the occupied territories prevented nearly all Palestinians from getting to employment in the country (see section 2.d.). Closures have continued periodically for the past five years. During periods of nonclosure, Palestinians required Israeli-issued permits to enter Israel. Permits may be issued for a single day or for periods of several months. Frequently, during closures, government authorities invalidated some or all existing valid permits, requiring even long-established travelers to secure new permits, often multiple times during the year. Accordingly, statistics on permit issuance and use do not reflect actual numbers of individual travelers allowed into the country. Many Palestinian laborers may have used the permits to make numerous entries; the government did not provide data as to how many different individual Palestinian laborers received work permits.

The Labor Inspection Service, along with union representatives, enforced labor, health, and safety standards in the workplace, although resource constraints affected overall enforcement.

Workers could not legally remove themselves from dangerous work situations without jeopardy to continued employment. Additionally, foreign workers risked immediate deportation. However, any worker could challenge unsafe work practices through government oversight and legal agencies. NGO and police reports continued to charge that unscrupulous employers sometimes forced illegal workers to live in situations amounting to involuntary servitude, because of the workers' vulnerable legal status and lack of recourse.

The law prohibits brokers and employers from collecting hiring fees from migrant workers. According to NGOs many foreign workers paid fees to brokers in their countries of origin to work in the country. The brokers then paid Israeli employers to hire the foreign workers. Some foreign workers reported paying fees in their home country, while others reported paying some fees, in cash, to brokers in Israel. Employers seeking to avoid paying workers' wages (and to receive brokerage fees for new workers) reportedly sometimes threatened violence and imprisonment to force existing workers to depart.

Public debate continued regarding non-Palestinian foreign workers. In October the industry, trade, and labor ministry and the immigration authority estimated such workers at between 127 thousand and 147 thousand. Legal workers came from many countries, including Jordan, Thailand, the Philippines, and Romania. Illegal workers came from Jordan, Eastern Europe, and Southeast Asia; they worked in the construction and agricultural sectors, and as domestic help.

The government estimated that, between January 1 and October 9, 21,566 foreign workers departed, with 7,235 deported or leaving involuntarily, and 14,331 departed voluntarily.

Human rights groups claimed that since foreign worker visas were tied to specific employment, even legal foreign workers had little influence on their work conditions.

The law does not permit foreign workers to obtain citizenship or permanent residence status unless they are Jewish. In June the government enacted a one-time program, valid to the end of the year, allowing children age 10 and above of foreign workers to become permanent residents and eventually citizens, if they were born and raised in the country and their parents entered the country legally. The government estimated that two thousand children and six thousand immediate family members would be eligible to become citizens under this provision; however, NGOs asserted that the numbers would be much lower. At year's end the government had received 228 applications for legalization under this new program, regarding 650 persons. NGOs cited these low numbers as evidence that the new program was too restrictive. At year's end the government had neither awarded nor denied citizenship to any applicant, although it approved 35 applications and began processing the necessary documentation.

NGOs alleged that Israeli and foreign traffickers lured foreign workers to the country with promises of jobs that proved nonexistent. Foreign workers reportedly paid up to \$10 thousand (45 thousand NIS) to employment agencies for work visas. In a significant number of cases, according to NGOs, employers dismissed workers shortly after arriving. Allegedly the manpower companies worked with authorities to deport the newly arrived workers, who were then replaced by others, earning the companies additional fees. NGOs argued that most workers expected to work for the two-year duration of their visas to recoup their initial payments. Dismissed foreign workers who avoided deportation often sought illegal employment.

Workers may contest deportation orders in a special court, but often lacked fluency in Hebrew, placing them at a considerable disadvantage. At least three times during the year, deportation tribunal judges noted lack of translation services hindered the judicial process. On September 25, in response to an NGO petition to the supreme court, the government indicated work continued on the draft of a tender for translation services. According to NGOs the government had spent three years drafting the tender, and at year's end it had not been completed.

In March 2004 in response to judicial criticism concerning protracted detention of foreign workers, the attorney general ordered that they be brought before the court within four days of arrest. The government generally honored the attorney general's directive. NGOs assist workers facing deportation, and there have been cases when the worker's status was reinstated. For example, in May the Tel Aviv Labor Court ordered immigration police to return two Thai workers deported before they could testify in their civil and criminal cases against their employer for inhumane treatment. At year's end the workers' lawyer reported that the court was willing to accept their testimony without requiring their return.

The court also provided a forum where workers subject to deportation orders could claim unpaid wages or other benefits; however, NGOs reported that workers often were deported before they could lodge claims. NGOs also noted cases in which the police injured foreign workers during arrest (see section 1.c.).

#### THE OCCUPIED TERRITORIES (INCLUDING AREAS SUBJECT TO THE JURISDICTION OF THE PALESTINIAN AUTHORITY)

Israel occupied the West Bank, Gaza Strip, Golan Heights, and East Jerusalem during the 1967 War. In 2005 the population of Gaza was approximately 1.4 million, of the West Bank (excluding East Jerusalem) approximately 2.4 million, and of East Jerusalem about 415 thousand, including approximately 177 thousand Israelis. Approximately 250 thousand Israelis resided in the West Bank. Various Oslo-era agreements transferred civil responsibility to the Palestinian Authority (PA) for Gaza and parts of the West Bank and divided the territories into three types of areas denoting different levels of PA and Israeli control. However, after Palestinian extremist groups resumed violence in 2000, Israeli forces resumed control over a number of these areas, citing the PA's failure to abide by its security responsibilities. On February 8, Israeli Prime Minister Ariel Sharon and newly elected PA President Mahmud Abbas agreed to cease violence and hostilities completely. During the year violence declined, and Israeli-imposed internal and external access restrictions lessened.

Between August 15 and September 12, the Israeli government evacuated all 21 settlements in Gaza and 4 settlements in the northern West Bank. PA security forces assumed overall security responsibility for Gaza. The Rafah crossing was closed beginning September 7, pending an agreement on border crossings. By mid-



November the PA and Egypt controlled the Rafah border, and by year's end there was limited Palestinian transit through the crossing.

The PA has a democratically elected president and legislative council, which select and endorse a prime minister and cabinet. On January 9, Palestine Liberation Organization (PLO) Chairman Mahmud Abbas won approximately 62 percent of the popular vote in a presidential election regarded as generally free and fair. The PA held multiple rounds of municipal elections during the year; however, Abbas postponed Palestinian Legislative Council (PLC) elections, scheduled for July 17, until January 25, 2006.

Israel exercised occupation authority through the Ministry of Defense's Office of Coordination and Liaison.

During the year 190 Palestinians were killed during Israeli military operations. A total of 50 Israelis, including 9 Israeli Defense Force (IDF) soldiers and 2 foreigners in both Israel and the occupied territories were killed in terrorist attacks. In October 2003 three US security personnel were killed and one wounded when a bomb detonated under their car in Gaza. At year's end there had been no progress by the PA's investigative team, and the case remained unsolved.

The PA generally did not maintain effective control over its security forces, and there were reports that members of the PA security forces committed numerous, serious abuses, including torture. The Israeli government maintained effective control of its security forces; however, there were reports that Israeli security forces used excessive force and abused and tortured detainees.

In September the Israeli Supreme Court reaffirmed its earlier decision that the separation barrier is permissible under both international law and Israeli law, however, the Israeli Supreme Court questioned whether the segment of the barrier at issue utilized the least intrusive route available, and it asked the government to consider whether there was an alternative route. The court further found that in September there were 43 remaining petitions regarding other portions of the wall that now would be decided by the court. In an advisory opinion, the International Court of Justice concluded in 2004 that the barrier was contrary to international law in a number of respects.

Regarding the PA, there were reports of the following problems:

- torture
- arbitrary and prolonged detention
- poor prison conditions
- infringement of privacy and freedom of speech
- insufficient measures to prevent attacks by terrorist groups either within the occupied territories or within Israel
- numerous instances of violence against Israeli civilians, resulting in deaths and injuries in the West Bank, Gaza, and Israel
- corruption and lack of transparency
- domestic abuse of women
- societal discrimination against women and persons with disabilities and child labor

Regarding the Israeli occupying forces, there were reports of the following:

- damage to civilians in the conduct of military operations
- numerous, serious abuses of civilians and detainees
- failure to take disciplinary action in cases of abuse
- improper application of security internment procedures
- use of temporary detention facilities that were austere and overcrowded
- limited cooperation with nongovernmental organizations (NGOs)

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Killings by Palestinian and Israeli security forces and by Israeli settlers and Palestinian militant groups remained a serious problem.

According to Human Rights Watch (HRW), as of June the IDF reported 131 criminal investigations into the use of weapons that resulted in injury or death, resulting in 28 indictments and 7 convictions, with the remaining cases still in process. The IDF also reported that as of June, 611 investigations were opened in response to

complaints of physical abuse, such as beatings, and complaints of property destruction. These investigations have led to 77 indictments.

On July 8, an Israeli security guard patrolling the separation barrier shot and killed a 15-year-old Palestinian boy. According to Palestinian witnesses, the boy was working in his family's agricultural fields near Bayt Liqya in the West Bank. Israeli authorities placed the guard under house arrest pending police investigation. At year's end there were no results from the investigation.

On August 17, Asher Weisgan, from the Israeli settlement of Shvut Rachel, shot and killed four Palestinian workers and wounded two others. On August 31, Israeli authorities in Jerusalem District Court indicted Weisgan on four counts of murder. At year's end the case had not been tried.

On September 30, IDF soldiers shot and killed an unarmed 13-year-old Palestinian boy during a pre-dawn raid on the Askar refugee camp, near Nablus. Initial IDF inquiry concluded the soldiers violated rules of engagement. At year's end the IDF was studying whether to conduct a military police investigation.

On October 27, Israeli forces launched a missile strike on a car in Gaza's Jabaliya refugee camp reportedly carrying an Islamic Jihad operative. Six other persons were killed and 19 wounded.

On November 1, Israeli missile strikes killed an al-Aqsa Martyrs' Brigades commander and a local Hamas leader in their car at the Jabaliya refugee camp north of the Gaza Strip. Nine bystanders were also injured.

On November 9, an Israeli border policeman shot and killed 35-year-old Samir Ribhi Da'ari, a Palestinian from Issawiye village, a neighborhood of East Jerusalem. Israeli authorities initially claimed that Da'ari attempted to drive his vehicle over the border policeman during the arrest of Da'ari's brother. A subsequent autopsy revealed Da'ari was shot in the back; at year's end court action against the policeman was pending.

On December 22, an Israeli raid in Nablus killed a reported commander of a local militia as well as two other Palestinians.

On February 10, Palestinian gunmen attacked the Gaza Central Prison and killed three prisoners as they awaited trial for two separate shooting deaths. The gunmen took one individual from the prison to the al-Burayj refugee camp and killed him publicly. The attackers were reportedly members of the families of the two shooting victims. At year's end there had been no arrests.

On July 23, Palestinian militants attacked vehicles traveling in the vicinity of the Abu Holi checkpoint in Gaza. Three IDF soldiers were injured, and two Israeli civilians were killed. Three militant groups claimed responsibility.

On August 24, a Palestinian stabbed two Jewish yeshiva students from a Western country in the Old City of Jerusalem and killed one. On October 8, Israeli security forces arrested a Palestinian from Hebron, who subsequently confessed to the killing. At year's end there was no further legal action.

On September 7, approximately 100 armed men attacked the Gaza City home of Musa Arafat, former PA Gaza National Security Forces chief, and killed Arafat and two bodyguards. The Popular Resistance Committees claimed responsibility for the attack. At year's end the PA had issued but not served an arrest warrant for one Popular Resistance Committee member.

On September 26, assailants, reportedly from the al-Aqsa Martyrs' Brigades, killed a Palestinian man suspected of collaborating with Israeli authorities. The killers kidnapped him days earlier from the Askar refugee camp near Nablus.

On October 2, a Palestinian civil police commander and two civilians were killed during a fight with Hamas members in Gaza. At least 51 others were injured, and 2 Gaza City police stations were heavily damaged.

On December 8, a knife-wielding Palestinian killed an Israeli soldier at the Qalandiya checkpoint north of Jerusalem; at year's end the Palestinian was awaiting trial.

On December 29, a Palestinian suicide bomber killed an Israeli guard and two Palestinians at a checkpoint near Tulkarm in the West Bank. The Palestinian Islamic Jihad claimed responsibility.

In December 2002 Imran Abu Hamdiyah, a 17-year-old Palestinian, was found dead in Hebron. In April 2003 Israeli officials arrested four border police officers on charges that they beat and then dumped Hamdiyah from their moving vehicle. On September 22, the Jerusalem District Court sentenced one of the four officers to four and one-half years in prison for assisting in Hamdiyah's death. At year's end the trial of the remaining three officers continued.

In October 2004 an Israeli settler, Boaz Albert, shot and killed 18-year-old Salman Yussuf Safadi near the settlement of Yizhar. On February 27, the Israeli police informed B'tselem that Albert claimed self defense. The investigation was

completed and forwarded to the Israeli state attorney for review; however, at year's end the State Attorney's Office had yet to respond or charge Albert.

In September 2004 an Israeli settler, Yehoshua Elitzur, shot and killed Palestinian taxi-driver Sa'al Jabara near Nablus. Witnesses said Elitzur shot Jabara at close range after he slowed his car to ask whether Elitzur needed assistance. On June 9, an Israeli court convicted Elitzur of manslaughter. At year's end Elitzur awaited sentencing.

In August 2004 unidentified assailants threw grenades into a room holding suspected Palestinian collaborators in the Gaza Central Prison. The attack killed two and injured six prisoners. Palestinian security officials arrested two policemen, who allegedly carried out the attack on behalf of Hamas. At year's end no further legal action had been taken against the officers.

Three US security personnel in a diplomatic convoy were killed in an attack in Gaza in October 2003. At year's end there was no progress by the PA's investigative team, and the case remained unsolved. During the year foreign governments continued to press the PA to resolve the case.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year. However, the PA neither prevented nor adequately investigated kidnappings of Palestinians or foreign nationals that occurred in conjunction with rising lawlessness in the West Bank and Gaza. For example on December 21, in northern Gaza, armed Palestinians kidnapped two foreign citizen school administrators. After PA official intervention, the kidnappers released their victims, but they have not been apprehended.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—PA Basic Law prohibits torture or force against detainees; however, international human rights groups stated that torture was a significant problem, and its use was not restricted to persons detained on security charges.

Torture by PA security forces reportedly was widespread. Documentation of abuses by PA security forces was very limited, due partly to hesitancy by alleged victims to make public claims of torture or abuse against PA authorities. Palestinian security officers have no formal guidelines regarding legal interrogation conduct; most convictions were based largely on confessions.

Israeli law, as interpreted by an Israeli high court decision, prohibits torture and several interrogation techniques but allows "moderate physical pressure" against detainees considered to possess information about an imminent terrorist attack.

The Association for Civil Rights in Israel 2004 report stated that the Public Committee Against Torture submitted over 100 complaints of torture in 2003. The Physicians for Human Rights in Israel reported that during the year, Israeli security forces used psychological abuse more frequently, including threats of house demolition or of questioning elderly parents, and kept prisoners in harsh conditions, including solitary confinement for long periods, rather than subjecting them to physical abuse. Israeli law prohibits forced confessions, but most security case convictions were based on confessions made before defendants had legal representation.

A detainee may not have legal representation until after interrogation, a process that may last weeks. The International Committee of the Red Cross (ICRC) is notified of arrests 12 days after they occur, and the ICRC is allowed to visit detainees 14 days after arrest. Detainees sometimes stated in court that their confessions were coerced, but there were no instances in which judges excluded such confessions.

On September 28, IDF soldiers entered a home in Tulkarm and ordered the residents out of the house, after which the soldiers ordered the men to undress in the street. B'tselem sought clarification from the IDF regarding these procedures. At year's end the IDF had not responded.

On November 21, Israeli soldiers assaulted Palestinian students in Hebron. The students had protested near a checkpoint against searches of their persons and possessions. At year's end no action had been taken against the soldiers.

In January 2004 at the Huwwara checkpoint, an IDF sergeant handcuffed and beat a Palestinian man in front of his family. The sergeant was convicted by a military judicial panel in September 2004, sentenced to 6 months in jail, and demoted to the rank of private; he also admitted beating at least 8 other Palestinians and smashing windshields of 10 taxicabs. At year's end there was no report on further legal action.

In September 2004 the Israeli Justice Ministry indicted five border policemen accused of severely abusing two Palestinians detained for lacking the necessary permits in Abu Dis. According to the indictment, the border policemen forced the Palestinians into a building; beat and abused them with rifles, boots, and fists before forcing them from a second floor window. On February 13, a Jerusalem court con-

victed 1 of the 5 policemen and sentenced him to 14 months in jail and 1-year probation. At year's end the trial for the other defendants continued.

In 2003 IDF soldiers at the Huwwara checkpoint outside Nablus demanded that two Palestinians clean the checkpoint. When the men refused, the soldiers handcuffed, blindfolded, and detained them for several hours. When B'tselem investigated the incident, the soldiers claimed their superiors had ordered them to do it. B'tselem requested an official investigation of the incident in 2004; however, at year's end there was no official response.

*Prison and Detention Center Conditions.*—PA prison conditions were poor. Facilities were dilapidated and neglected; most were destroyed during the Intifada, and prisoners were kept informally incarcerated. There were separate facilities to hold juvenile prisoners. Prison facilities were poorly protected and subject to intrusions by outsiders. The PA generally permitted the ICRC access to detainees and allowed regular inspections of prison conditions; however, the PA denied access to some detainees for 14 days following their arrests. The PA permitted monitoring of its prisons, but human rights groups, humanitarian organizations, and lawyers reported difficulties gaining access to specific detainees. Human rights organizations stated their ability to visit PA prisons and detention centers varied depending on which organization ran the facility. Human rights monitors said prison authorities did not consistently permit access to PA detention facilities, and they rarely could see inmates being interrogated.

Conditions of Israeli permanent prison facilities generally met international standards. Provisional detention centers were less likely to meet standards. According to the 2004 Israel Public Defender's Office report on detention facilities of the Prisons Service and Police, detainees in the Jerusalem Russian Compound facility endured overcrowded cells and suffocating conditions. Detention and interrogation facilities for Palestinian detainees, including the four interrogation centers (Shikma, Kishon, Petah Tikva, and the Jerusalem Internment Center) were austere, overcrowded, provisional facilities. Israel held at least 117 Palestinian prisoners in some form of solitary confinement. Israel permitted monitoring of prison conditions by the ICRC and other groups, although human rights groups reported delays and difficulties in gaining access to specific detainees.

The NGO Palestinian Prisoners Club reported that there were approximately 1,153 medical cases in Israeli prisons. Following the August 2004 hunger strike, Israeli authorities increased medical attention and authorized several private doctors to visit prisoners; however, prisoners continued to claim that medical attention was inadequate.

On July 28, Public Committee Against Torture in Israel demanded Israeli authorities investigate the death of 18-year-old Jawab Abu Maghasib, who died while in administrative detention at Ketziot prison in Israel. Abu Maghasib, who had been under administrative detention since 2002, reportedly suffered from a medical condition.

*d. Arbitrary Arrest or Detention.*—Palestinian law prohibits arbitrary arrest and detention; however, it allows police to hold detainees without charges for 24 hours. Courts may approve detention without charges for up to 45 days. A trial must start within six months of arrest or the detainee must be released. In practice the PA detained many Palestinians without charge for months.

*Role of the Police and Security Apparatus.*—Israeli security forces in the West Bank and Gaza consisted of the IDF, the Israel Security Agency (Shin Bet), the Israeli National Police (INP), and the Border Police, an operational arm of the INP that is under IDF command when operating in the occupied territories. Israeli military courts tried Palestinians accused of security offenses.

Palestinian security forces were under the authority of the PA.

Palestinian police were normally responsible for security and law enforcement for Palestinians and other non-Israelis in PA-controlled areas of the West Bank and Gaza. Palestinian security forces included the National Security Forces, the Preventive Security Organization (PSO), the General Intelligence Service, or Mukhabarat, the Presidential Security Force, and the Coastal Police. Other quasi-military security organizations, such as the Military Intelligence Organization, exercised the equivalent of law enforcement powers. The General Intelligence Law, signed into effect in October, placed the Mukhabarat under PA President Abbas's authority.

In April Abbas placed operational control of the security services under the interior minister. While the order was given to consolidate the security forces under the interior minister, this was not done in practice, and there were ongoing problems in the delineation of responsibilities, with no clear chain of command. In practice the Mukhabarat and the PSO maintained independent commands and reported directly to the president. On September 25, Abbas restructured the Palestinian Na-

tional Security Council, incorporating competing security interests. The PA lacked full control over security forces. On December 20, armed members of Fatah-affiliated Al-Aqsa Brigades briefly seized Bethlehem's municipal building, reportedly demanding employment.

PA security forces detained persons without informing judicial authorities and often ignored laws protecting detainee rights and court decisions calling for release of alleged security criminals. At year's end Palestinian sources estimated the PA imprisoned approximately 239 suspected of collaboration with Israel. Alleged collaborators often were held without evidence and denied access to lawyers, their families, or doctors.

*Arrest and Detention.*—Under applicable occupation orders, Israeli security personnel may arrest without warrant or hold for questioning a person suspected of having committed or being likely to commit a security related offense. Israeli Military Order 1507 permits the Israeli security forces to detain persons for 10 days, during which period they cannot see a lawyer or appear before court. Administrative security detention orders could be issued for up to six-month periods and renewed indefinitely by judges. The law expressly authorizes an appeal of the circumstances of each security detention order to the Israeli Supreme Court. No detainee has ever successfully appealed a detention order under this process. Israeli Military Order 1369 provides for a 7-year prison term for anyone not responding to a summons in security cases. Suspects are entitled to an attorney, but this right can be deferred during interrogation, which can last up to 90 days. Israeli authorities stated that they attempted to post notification of arrests within 48 hours, but senior officers may delay notification for up to 12 days.

Additionally, a military commander may request a judge to extend this period in security cases indefinitely. The Israeli military orders required notification of family members of specific cases of detention; however, many families reported serious problems in learning of the status and whereabouts of prisoners. Evidence for administrative detentions in security cases was often unavailable to the detainee or his attorneys due to security classification, but it was made available to the court.

Palestinians claimed that security detainees held under Israeli security detention military orders were in fact political prisoners. At year's end Israel held approximately 9,170 Palestinian security prisoners, of whom at least 740 were in administrative detention.

In February and June, the Israeli government released 898 Palestinians in accord with the February Sharm al-Shaykh agreement. Most had served more than two-thirds of their sentences.

During the year Israel conducted some mass arrests in the West Bank; however, most arrests targeted specific persons. Beginning on September 25, in response to rocket attacks from Gaza, the IDF arrested over 300 suspected Hamas and Palestinian Islamic Jihad activists in the West Bank in a period of days, including a number of Hamas municipal election candidates.

Palestinians transferred to prisons in Israel had difficulty obtaining legal representation because only Israeli citizens or Palestinian lawyers with Jerusalem identification cards were permitted to visit them. However, in 2004 the government revised procedures to permit more access by lawyers, and more lawyers exercised access. Israeli authorities in some instances scheduled appointments but then moved the prisoners to other prisons to delay lawyer-client meetings for as long as 90 days.

The Israeli government frequently failed to notify foreign consular officials in a timely manner after detaining their citizens.

During the year Israel transferred one Palestinian from the West Bank to Gaza. On February 27, the IDF deported an 18-year-old Palestinian from Dheisheh refugee camp in Bethlehem to Gaza following his completion of a 14-month prison sentence. On February 20, Israel allowed 16 deportees to Gaza to return to the West Bank. At year's end approximately 40 others awaited permission to return to the West Bank.

*e. Denial of Fair Public Trial.*—The PA court system is based on Israeli military orders and legal codes, including Jordanian and Ottoman Law that predate the 1967 occupation. A High Judicial Council maintained authority over most court operations. In 2003 the PA justice minister ordered the state security courts terminated. However, Palestinian human rights groups charged the PA did not implement the justice minister's order adequately and called on the PA president to abolish these courts formally. On June 22, PA President Abbas ordered retrials for those sentenced to death by the state security courts. Military courts, established in 1995, have jurisdiction over police and security force personnel as well as crimes by civil-

ians against security forces. In November Abbas issued a decree establishing a court for election issues to be composed of nine judges.

PA courts were inefficient, lacked staff and resources, and often did not ensure fair and expeditious trials. These problems predated PA jurisdiction and were aggravated by subsequent lack of PA attention. PA executive and security services frequently failed to implement court decisions and otherwise inhibited judicial independence.

Ongoing violence adversely affected PA administration of justice. Many police stations and incarceration facilities were damaged or destroyed. Travel restrictions, curfews, and closures significantly impeded administration of justice.

Israeli law provides for an independent judiciary, and the government generally respected this in practice. The IDF usually tried Palestinians accused of security offenses in the occupied territories in military courts. The law comprehensively defined security offenses and may include charges as varied as rock throwing or membership in outlawed terrorist organizations, such as Hamas or the Popular Front for the Liberation of Palestine. Military prosecutors brought charges. Israeli military courts rarely acquitted Palestinians charged with security offenses; sentences occasionally were reduced on appeal.

*Trial Procedures.*—Israeli military trials followed the same evidentiary rules as in regular criminal cases. The accused is entitled to counsel, and a judge may assign counsel. Charges are made available to the defendant and the public in Hebrew, but the court may order an Arabic translation. The court may hear evidence in security cases denied to the defendant or his attorney; however, a conviction may not be based solely on such evidence. Convictions may not be based solely on confessions, although in practice some security prisoners were convicted on the basis of allegedly coerced confessions by themselves and others. Defendants can appeal through the Military High Court or to the civilian high court in certain instances.

The Israeli government sometimes delayed trials for very extended periods because Israeli security force witnesses did not appear, the defendant was not brought to court, files were lost, or travel restrictions delayed attorneys (see section 2.d.). Palestinian legal advocates alleged that delays were designed to pressure defendants to settle their cases.

Crowded facilities, poor arrangements for scheduling and holding attorney-client consultations, and confessions prepared in Hebrew hindered defense efforts.

Israeli settlers were tried under Israeli law in the nearest Israeli district court. Civilian judges presided; Israeli law (not military orders) governed the standards of due process and admissibility of evidence. The Israeli government rarely prosecuted settlers for crimes against Palestinians and, in the rare instances when convicted, they regularly received lighter punishment than Palestinians convicted in Israeli courts (see section 1.a.). According to B'tselem, during the year the Israeli police claimed that it had conducted 299 investigations into reported settler attacks on Palestinians; indictments were filed in 65 of these investigations.

In May 2004 a Tel Aviv District Court convicted West Bank Fatah leader and PLC member, Marwan Barghuti, on three charges of murder and a charge of attempted murder involving terror attacks. Barghuti rejected the Israeli court's jurisdiction, did not mount a legal defense, and did not appeal the five consecutive life sentences he received. There was no further legal action during the year.

Pursuant to law the PA can impose the death penalty on a person convicted of any of 42 offenses. Military courts and state security courts have imposed most death sentences attributed to the PA. There is no judicial procedure to appeal these sentences, and only the PA president has the authority to ratify or alter the sentence. If the president does not act, the individual remains in jail.

On June 12, the PA executed four men, the first executions since 2002. The state security courts, established by the presidential decree in 1995 but terminated by the PA justice ministry in 2003, convicted one of the four executed men.

In November 2004 an Israeli military court delayed PLC member Husam Khader's trial until March 6. Khader was arrested in March 2003 for alleged involvement in Intifada-related violence. On November 27, after repeated delays, an Israeli military court sentenced Khader to seven years in jail for Intifada-related violence.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The PA required the attorney general to issue warrants for entry and searches of private property; however, Palestinian security services frequently ignored these requirements. Police searched homes without the consent of their owners. In some cases police forcibly entered premises.

Under occupation orders an IDF officer of the rank of lieutenant colonel or above could authorize entry of private homes and institutions without a warrant, based

upon military necessity. On some occasions IDF personnel beat occupants and destroyed or looted property. Authorities stated that these were punishable violations of military regulations with compensation due.

Israeli security forces demolished and sealed the homes of Palestinians suspected of terrorism or the relatives of such suspects, without judicial review (see section 1.g.). According to B'tselem, from October 2001 to January, the Israeli government demolished 666 homes in the occupied territories as punishment. On February 17, Israeli Defense Minister Mofaz announced the cessation of punitive house demolitions.

On February 23, the IDF occupied a Palestinian home in Yatta village south of Hebron for two days. During the period the IDF confined seven family members, including three children and a sick elderly person, to one room.

Israel demolished many homes between the Rafah refugee camp and the border with Egypt on the grounds that some houses concealed tunnels used for weapons smuggling or provided cover for attacks against Israeli soldiers. However, there were no operations comparable to "Operation Rainbow" in May 2004, which destroyed 298 homes according to UN agencies and left approximately 3,800 persons homeless. Between 2000 and the Israeli withdrawal from Gaza, the IDF demolished approximately 1,500 buildings in Rafah making more than 15 thousand Palestinians homeless.

On August 21, IDF Chief of Staff Dan Halutz announced that there would be no legal action against the former IDF commander in the Gaza Strip, Ze'ev Zakai, for unauthorized demolition of 40 buildings in Khan Yunis. An IDF committee earlier determined that had Zakai requested permission to demolish the structures, it was reasonable to conclude he would have received it.

Israeli authorities limited Palestinian home construction, notably in East Jerusalem. Israeli authorities generally restricted Palestinian home building elsewhere in the West Bank and near Israeli settlements. According to the Israeli Committee Against House Demolitions (ICAHN), approximately 10 thousand structures in East Jerusalem were defined by the Israeli government as illegal; consequently, Jerusalem municipal authorities and the interior ministry systematically demolished such structures. In 2004 ICAHD reported over 150 buildings in East Jerusalem were destroyed, and 94 East Jerusalem structures were demolished during the year.

The IDF destroyed numerous citrus, olive, and date groves, and irrigation systems in Gaza, stating that Palestinians had been firing Qassam rockets from those areas. Human rights groups reported that over the past 3 years, 2,400 Palestinian olive trees were destroyed, mainly by Israeli settlers.

The IDF also cleared and took permanent control of privately owned Palestinian land to construct the separation barrier. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), the separation barrier was approximately 243 miles long, with 166 miles under construction, and was projected to extend 670 miles upon completion. OCHA noted as of October, the Israeli authorities, through military orders, had confiscated approximately 8,785 acres of West Bank land to construct the separation barrier. According to Israel it sought to build the barrier on public lands where possible, and where private land was used, provided opportunities for compensation. Palestinians largely declined to seek compensation out of concern that this would legitimize the Israeli land confiscations. Additionally, numerous cases were filed in Israeli courts challenging the route of the fence.

Human rights monitors reported that the IDF provided greater protection to Palestinian farmers from Israeli settler attacks than they did in the past. Still, Palestinians complained that the IDF measures gave insufficient time to complete the harvest and that they were limited in their ability to protect their property by curfews and travel restrictions. On August 22, Israeli settlers inflicted considerable damage to Palestinian homes and cars near the settlement of Homesh, which was scheduled to be evacuated. No settlers were charged. In October and November, Israeli NGOs documented attacks by settlers on Palestinians and their property in Salem, Hebron, and the Khoruba Valley resulting, among other damage, in destruction of approximately 300 olive trees. Israeli authorities took no action against the settlers.

In February Palestinian residents of Madama village, south of Nablus, claimed to police that settlers from the nearby Yizhar settlement deliberately sabotaged the village's water supply. Israeli police opened an investigation; however, at year's end there were no developments in the case.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—Palestinian members of Hamas, Fatah-affiliated militant groups, and Palestinian Islamic Jihad attacked and killed Israeli civilians, foreign nationals, and soldiers, both in Israel and in the occupied territories. They used weapons in such a manner as to inflict casualties on noncombatants, such as suicide bombs,

rockets, and mortars. In addition they often fired at Israeli security forces from civilian population areas, increasing the risk that Israeli return fire would harm non-combatants. The PA took some steps to prevent terrorist attacks and banned the display of weapons in public, but these steps did not prevent or deter numerous attacks. Armed members of various groups ignored PA directives; PA security has not consistently prevented them from displaying weapons in public. During the presidential campaign, Fatah presidential candidate Abbas publicly called the armed Intifada counterproductive to Palestinian interests.

In March the PA and Palestinian factions agreed to uphold a *tahdiyah*, or period of calm, whereby armed Palestinian groups would refrain from attacks on Israeli targets; however, during the year militant factions broke this agreement killing and injuring Israelis.

According to the PA health ministry, the Palestine Red Crescent Society (PRCS), and B'tselem, at least 190 Palestinians were killed during Israeli military and police operations during the year. The IDF stated that the majority of Palestinians killed were armed fighters or persons engaged in planning or carrying out violence against Israeli civilian and military targets. According to the PRCS, IDF operations and clashes with Palestinians resulted in injuries to approximately 900 Palestinians.

According to a June HRW report, Israeli military investigative practices were not "impartial, thorough, or timely." The report charged that the IDF had criminally investigated less than 5 percent of the civilian deaths since the start of the second Intifada in September 2000 until November 2004, and this failure fostered a climate of impunity within the IDF. The IDF stated it conducted 130 investigations involving incidents where soldiers opened fire against regulations, and issued 28 indictments, with 7 convictions, and 1 acquittal; the remaining 20 court cases were ongoing. The other incidents were still under investigation.

The IDF conducted numerous military incursions into Palestinian population centers in response to Palestinian mortar and antitank fire from the centers. These actions often resulted in civilian casualties. Israeli forces fired tank shells, heavy machine-gun rounds, and rockets from aircraft at targets in residential and business neighborhoods where they believed Palestinian gunfire originated. Palestinians often used civilian homes to fire upon Israeli forces and booby-trapped homes and apartment buildings. In response the IDF usually raided, and often destroyed, these buildings.

On January 31, IDF gunfire killed a 10-year-old Palestinian girl and injured a second. Both girls were inside their UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) school in Rafah at the time of the incident. The IDF opened an investigation into the shooting; however, at year's end there had been no conclusion from the investigation.

In May 2004 in Rafah, two Palestinian children were shot in the head on the rooftop terrace of their home while performing household chores. Amnesty International (AI) concluded that IDF snipers killed both; Israeli army officials suggested an explosive device set by Palestinians killed them. At year's end there was no information on any further official investigation.

In October 2004 IDF soldiers shot and killed Iman al-Hams, a 13-year-old Palestinian schoolgirl, as she approached an IDF outpost in the southern Gaza Strip. The girl approached the outpost carrying a bag of schoolbooks that troops suspected contained explosives. After the girl had been shot from a distance, the IDF company commander allegedly repeatedly fired his automatic weapon into her at close range. In November 2004 an IDF military court indicted the company commander for illegal use of weapons, obstructing justice, unbecoming behavior, and improper use of authority. On February 6, the military court released the company commander after a soldier who witnessed the incident recanted his testimony. Another witness stated that he could not confirm that the company commander had aimed his weapon at the girl. At year's end the family of Iman al-Hams awaited a decision from the Israeli high court on their petition for a broader investigation into the case.

In October 2004 the IDF severely damaged the Gaza City wastewater treatment plant resulting in substantial damage to parts of the plant funded by a Western aid organization. An investigation was begun into the incident; however, the IDF stated that the plant was not intentionally targeted. The Western aid organization has received no further information on the status of the investigation.

IDF soldiers reportedly fired without warning on trespassers in or near restricted areas. On April 9, IDF soldiers shot and killed three Palestinian teenagers near the border fence separating Gaza from Egypt. Palestinians said the youths were playing soccer, but the IDF charged that they were attempting to smuggle weapons. The IDF ordered an investigation; however, at year's end the investigation was not complete.



On August 24, IDF personnel raided the Tulkarm refugee camp and killed five Palestinians. The IDF initially claimed that those killed were connected to terrorist attacks in Israel. A subsequent investigation, however, revealed that three of the five killed were unarmed teenagers while the two adults, shot at close range, were unarmed, low-ranking militants. The IDF chief of staff ordered a special inquiry into the IDF raid; however, at year's end there were no results from the inquiry.

During the year according to Palestinian security and media reports, the IDF targeted for killing at least 30 Palestinians suspected of involvement in terrorism. IDF forces killed at least five bystanders in these operations—some were civilians; others were affiliated with terrorist organizations. Approximately 50 others, mostly bystanders, were injured during these operations. On September 25, the Israeli government announced resumption on a limited basis of targeted killings; it had halted such killings following the February Sharm al-Shaykh summit.

Israeli security personnel operating checkpoints killed a number of Palestinians. On July 18, the IDF opened fire in the direction of Palestinians waiting to cross the Abu Holi checkpoint in the Gaza Strip and killed a 14-year-old Palestinian boy. The IDF opened an investigation into the incident; however, at year's end there were no results.

While protecting the construction of the separation barrier, Israeli security personnel killed a number of Palestinians. On May 4, cousins Jamal Jaber Ibrahim Assi, age 15, and Odai Mufid Mahmud Assi, age 14, were shot and killed near Bayt Liqya, west of Ramallah, during clashes between Palestinian protesters and soldiers. According to Palestinian witnesses, IDF soldiers initially fired rubber bullets and tear gas, but subsequently they fired live ammunition. The IDF ordered a Military Police investigation and suspended the deputy company commander from operational duty until the completion of the investigation. At year's end there were no conclusions from the investigation.

During the year Israeli forces delayed the movement of, and occasionally fired upon, medical personnel and ambulances.

On January 26, the IDF fired upon a PRCS ambulance that was being driven to evacuate an injured person near Qalqilya.

On February 10, the IDF denied access to a PRCS ambulance transporting a pregnant woman in the Gaza Strip from al-Mawassi enclave to a hospital in Khan Yunis. The security officials delayed access for over two hours before finally denying it.

On April 8, clashes occurred at the Qalandiya checkpoint between the IDF and Palestinian youths who were prohibited from entering Jerusalem for Friday prayers. Two Palestinians were shot.

The IDF abuse of Palestinians or their vehicles at checkpoints continued. In its 2004 report, Machsom Watch (an Israeli women's organization that monitors checkpoints in the West Bank and Jerusalem) alleged a series of abuses. On October 4, IDF soldiers manning the Huwwara checkpoint, south of Nablus, beat and kicked a Palestinian man, according to representatives from Machsom Watch. The Palestinian, who was hospitalized with a concussion and required stitches to his face, said that the beating occurred following an argument with an IDF soldiers on duty at the checkpoint.

Palestinians frequently threw stones and Molotov cocktails, and on occasion fired live ammunition at Israeli security forces. Israeli security forces on various occasions responded with tear gas, rubber bullets, and live fire, including tank fire.

Israeli forces used Palestinians as "human shields" in violation of Israeli law. In 2002 the Israeli high court granted an injunction against the use of Palestinians as "shields" for Israeli forces. The IDF admitted violations of existing procedures and reiterated that IDF forces "are absolutely forbidden to use civilians of any kind as a means of 'living shield' against gunfire or attack by the Palestinian side, or as 'hostages.'" On October 6, the Israeli high court ruled that it was illegal for the IDF to use Palestinian civilians as "human shields" during arrest operations against suspected Palestinian militants. The IDF chief of staff ordered the Israeli army to implement the high court decision immediately.

Prior to the high court decision, on May 23, an Israeli television news report showed footage of an IDF soldier aiming a rifle with a teargas grenade while standing behind a 17-year-old blindfolded Palestinian in Dura village, west of Hebron. The television report claimed that the IDF used the Palestinian as a shield against rock-throwers. The IDF denied the allegation, stating that IDF personnel arrested the Palestinian for throwing rocks at soldiers and kept him under guard until transferring him to police custody.

On August 31, IDF soldiers entered the home of Mahmud Rajabi in Hebron and reportedly detained three members of the family to serve as human shields. The IDF commander of the operation reportedly said that the soldiers used the brothers

to prevent rock and bomb throwing at the soldiers in the house. On September 2, the soldiers vacated the premises.

In September 2003 B'tselem and the Association for Civil Rights in Israel petitioned the high court to open military investigations into all cases where IDF soldiers killed Palestinians who had not engaged in hostilities. At year's end the high court had not ruled on the petition.

On July 27, the Knesset approved an amendment to the Civil Wrongs Law that would prohibit Palestinians residing in the occupied territories from seeking compensation for death or injury at the hands of the IDF or property damage. The amendment prohibits "a national of an enemy state or resident of a conflict zone" from bringing claims against Israel in an Israeli court. On September 1, nine Israeli and Palestinian human rights organizations petitioned the high court for a temporary injunction. The high court was scheduled to hold a hearing on March 1, 2006.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The PA does not have laws providing for freedom of press; however, the law permits every person the right to freedom of thought, conscience, and expression, and the right to express opinions orally, in writing, or through any other form. However, a 1995 presidential decree included injunctions against writing anything critical of the PA or the president. Although the PA did not restrict freedom of speech or press, members of the ruling Fatah faction restricted freedoms of speech and press.

Working conditions for journalists in the West Bank and Gaza improved noticeably during the year. The democratic election of Mahmud Abbas as president of the PA in January improved press freedom and working conditions for journalists. Self-censorship and fear of being harmed or harassed by armed activists and militant groups remained the greatest challenges for journalists working in the West Bank and Gaza.

On May 15, in an apparent act of intimidation, unknown individuals spray-painted the vehicle of a Palestinian journalist in the Gaza Strip. PA police declined to investigate. In the same month, Palestinian journalists in Gaza went on strike for a week to protest PA police beating journalists.

On July 19, the Palestinian Journalists Syndicate, controlled by the Fatah movement, instructed local reporters and photographers not to cover clashes between Hamas and Fatah in the Gaza Strip and warned that any violation of its instructions would bear personal and legal consequences.

There were three Palestinian dailies and several Palestinian weekly newspapers. There also were several monthly magazines and three tabloids. The PA operated two television stations and one radio station. There were approximately 30 independently owned television stations and approximately 9 such radio stations. According to an August study published by the Palestinian Center for Public Opinion, approximately 38 percent of Palestinians in the occupied territories had access to the Internet.

The PA took steps to end incitement in Palestinian media. During the year the Palestinian Broadcasting Corporation (PBC) reduced its inflammatory material, including incitement to violence. PA Minister of Information, Nabil Sh'ath, instructed the PBC in February to eliminate images of dead bodies and other graphic footage and inflammatory videos. The PBC also no longer broadcast nationalistic songs that typically called for fighting the "Zionist enemy."

The Israeli occupation authorities limited speech. In East Jerusalem Israeli authorities prohibited display of Palestinian political symbols; displays were punishable by fines or prison, as were public expressions of anti-Israeli sentiment and of support for Islamic extremist groups. Israeli authorities censored press coverage of the Intifada and reviewed Arabic publications for security related material.

As a general rule, Israeli media covered the occupied territories, except for combat zones where the IDF temporarily restricted access. The government claimed restrictions were necessary for journalists' security.

Closures and curfews limited the ability of Palestinian journalists to do their jobs. Between June and August, the government restricted media access to settlements in Gaza and the northern West Bank that it was evacuating. Journalists complained of area closures, long waits at the Gaza border crossing, and the government's inadequate transportation provisions.

On July 4, the IDF detained an Israeli television reporter and a newspaper photographer covering IDF removal of Israeli activists from a hotel in the Gaza settlement of Gush Katif. The IDF claimed that the journalists violated a closed area order but apologized for handcuffing them.

On August 15, the PA and the Palestinian Journalists Syndicate accused the Israeli government press office of refusing to accredit Palestinian journalists before

and during the disengagement from Gaza in an apparent effort to prevent local journalists from reaching settlement areas and covering events.

There were several allegations from foreign media that the IDF fired upon journalists.

On January 2, Majdi al-Arabid, a journalist working in the Gaza Strip, was shot in the stomach near Bayt Lahia while reporting on IDF operations against Palestinians suspected of firing rockets into Israel. Reportedly al-Arabid attempted to identify himself before being shot. An IDF spokesperson said that soldiers were unaware that journalists were in the area. The IDF reportedly opened an investigation; however, at year's end there was no information on the status of that investigation.

During the year Israeli gunfire injured at least one journalist during clashes between the IDF and Palestinians. IDF soldiers beat journalists on several occasions, detained others, and confiscated their press cards in Bil'in village where there were weekly protests over construction of the separation barrier.

In May 2003 James Miller, a British national, was killed by the IDF while filming a documentary in Rafah in the Gaza Strip. On April 14, after an investigation a disciplinary military court hearing acquitted an IDF officer on charges of illegal use of firearms. The IDF decided in March not to prosecute the officer on criminal charges. On April 21, the IDF announced that it had filed an appeal to reopen proceedings against the officer. At year's end there was no information regarding the status of the appeal.

In April 2003 an IDF soldier killed Nazeeh Darwaza while he was filming a wounded child during an IDF incursion in Nablus. In June 2004 Israeli government officials informed B'tselem that the military attorney general was investigating the case. At year's end there was no further information.

Rising levels of lawlessness in the Gaza Strip subjected journalists to harassment and kidnappings. On August 15, unidentified gunmen in the Gaza Strip kidnapped French journalist Muhammad Ouathi, who was covering the Israeli disengagement from Gaza. On August 22, the kidnappers released Ouathi.

On October 12, gunmen kidnapped two Western journalists as they traveled near Khan Yunis in the Gaza Strip. The armed men reportedly had sought employment with the PA security services. The kidnappers released both journalists approximately six hours later.

The PA had authority over all levels of education. During the year the PA did not interfere with education; however, the violence and restrictions on the movement of Palestinians by Israeli security forces adversely affected academic institutions. Israeli closures, curfews, and the separation barrier restricted access to Palestinian academic institutions. The separation barrier also prevented some students from taking examinations. Israeli shelling and gunfire during military operations damaged a number of schools and, in some cases, killed schoolchildren (see section 1.g.). According to the UN Children's Fund (UNICEF), 269 school buildings were damaged between 2000 and the end of the year. The PA education ministry calculated physical damage to schools and universities at more than \$10 million (46 million NIS). In some instances Israeli authorities entered campuses to arrest students.

In September Israeli authorities required thousands of Palestinian schoolchildren, who resided on the eastern side of the separation barrier around Jerusalem, to transit gated checkpoints to attend school in East Jerusalem. West Bank teachers who worked in East Jerusalem schools faced difficulties in acquiring permits to reach their classrooms; many did not receive permits until December.

In November 2004 a remote control bomb exploded in the office of Yaser al-Madhoun, a Palestinian professor at al-Azhar University in Gaza City, and killed him; another Palestinian was injured. At year's end PA police continued the investigation.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—PA law permits public meetings, processions, and assemblies, within legal limits; however, the PA imposed some formal limits on freedom of assembly. While it required permits for rallies, demonstrations, and large cultural events, it rarely denied these permits. In Gaza police approval was required for political meetings at specific halls and for buses to transport passengers to attend such meetings. The PA prohibited calls for violence, displays of arms, and racist slogans, although it rarely enforced these provisions.

Israeli military orders banned public gatherings of 10 or more persons without a permit; however, Palestinians could ignore this order without punishment.

Israeli security forces used force against Palestinians involved in demonstrations (see section 1.c.). Israeli and Palestinian authorities disputed whether Palestinians

attacked security forces during such demonstrations. In 2001 the IDF authorized gunfire to suppress rock-throwing.

Since February Palestinians and Israelis have demonstrated repeatedly in the village of Bil'in, west of Ramallah, against construction of the separation barrier. Throughout the year confrontations between the IDF and protesters resulted in numerous injuries. Soldiers beat, injured with rubber bullets, or tear gassed at least 160 protesters.

*Freedom of Association.*—PA law allows for the freedom of association. The PA limited freedom of association somewhat; however, charitable, community, professional, and self-help organizations operated.

In 2001 Israeli officials closed Orient House, the preeminent Palestinian political institution in Jerusalem. In 2002–03, Israel closed other prominent Palestinian centers and offices in East Jerusalem. Israeli authorities claimed that these institutions operated under PA supervision in violation of signed agreements. At year's end all remained closed.

*c. Freedom of Religion.*—Palestinian law provides for religious freedom, and the PA generally respected this right in practice; however, there was deterioration in the status of the PA's respect for religious freedom.

Islam is the official religion of the PA. Religion must be declared on identification papers, and personal status legal matters must be handled in ecclesiastical courts. The PA's Ministry of Waqf and Religious Affairs constructed and maintained mosques and paid salaries of imams. Christian clergymen and charitable organizations received limited financial support. The PA did not provide financial support to any Jewish institutions or holy sites in the occupied territories; these areas were generally under Israeli control.

The PA judiciary failed to adjudicate numerous cases of seizures of Christian-owned land in the Bethlehem area by criminal gangs. There were credible reports that PA security forces and judicial officials colluded with gang members to extort property illegally from Christians. Several attacks against Christians in Bethlehem went unaddressed by the PA, but authorities investigated attacks against Muslims in the same area.

Following Israeli disengagement from Gaza, Palestinian crowds set fire to 4 of 19 abandoned synagogues but caused little structural damage. The PA announced plans to demolish the remaining synagogues and did so by year's end.

The PA required that religion be taught in PA schools and provided separate instruction for Muslims and Christians.

Israeli authorities generally respected religious freedom and permitted all faiths to operate schools and institutions. There were reports that the Israeli government seized land belonging to several religious institutions to build its separation barrier. However, according to the Israeli government, it sought to build the barrier on public lands where possible, and where private land was used, provided opportunities for compensation.

Throughout the year Israeli authorities granted more visa requests for Christian clergy; however, problems persisted with over 30 requests outstanding. The shortage of foreign clergy impeded the functioning of Christian congregations.

Internal and external closures prevented tens of thousands of Palestinians from reaching places of worship in Jerusalem and the West Bank, particularly during religious holidays. Citing security reasons the Israeli government frequently prevented nearly all West Bank Palestinians and most male Muslim worshippers with Jerusalem blue identification cards under the age of 45 from attending Friday prayers inside the Haram al-Sharif/Temple Mount, the third holiest site in Islam. Israeli authorities restricted most West Bank residents and virtually all Gaza residents from entering Jerusalem during Ramadan, the Muslim holy month of prayer and fasting.

Israeli police continued to escort tourists to the Haram al-Sharif/Temple Mount to assert the right of non-Muslims to visit the shrine. Non-Muslims were not permitted to worship publicly at the shrine; however, Waqf officials accused Israeli police of permitting Jewish groups to worship.

*Societal Abuses and Discrimination.*—Palestinian media frequently published and broadcast material about the Israeli occupation that included anti-Semitic content. Rhetoric by Palestinian terrorist groups included expressions of anti-Semitism. Some Muslim religious leaders preached sermons on the official PA television station that included expressions of anti-Semitism. On the positive side, on October 28, Israeli media quoted PLO Chief Negotiator Sa'eb Erekat's statement that the Iranian president's declaration that Israel should be wiped off the map was "unacceptable."

On May 13, Ibrahim Mdaires, an imam in Gaza, accused Jews of inflating the dimensions of the Holocaust. On May 19, media quoted PA Minister of Information

Nabil Sh'ath as calling for Mdaires' suspension from the PA religious affairs ministry and Muslim Waqf (religious trust), which employed Mdaires, and banned him from delivering Friday sermons. At year's end Mdaires was not delivering Friday sermons.

The PA Ministry of Education and Higher Education (MOEHE) continued to revise its primary and secondary school textbooks. International academics concluded that Palestinian textbooks did not cross the line into incitement; however, critics noted the new textbooks did not recognize Israel on its maps and often ignored historical Jewish connections to Israel and Jerusalem.

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

*d. Freedom of Movement Within the Occupied Territories, Foreign Travel, Emigration, and Repatriation.*—The PA generally did not restrict freedom of movement. The Israeli occupation authorities often restricted the daily movement of Palestinians and frequently heightened these restrictions citing military necessity.

The Israeli government continued construction of a security barrier along parts of the Green Line (the 1949 Armistice line) and in the West Bank. Palestinians filed a number of cases with the Israeli Supreme Court challenging the routing of the barrier. In June 2004 the court ruled that a section of the barrier must be rerouted; determining that the injury caused by the routing of the barrier did not stand in proper proportion to the security benefits; various portions of the barrier route were rerouted. In July 2004 the International Court of Justice issued an advisory opinion, concluding that the construction of the barrier was in a number of aspects contrary to international law.

In September the Israeli Supreme Court reaffirmed its earlier decision that the separation barrier is permissible under both international law and Israeli law; however, it questioned whether the segment of the barrier at issue utilized the least intrusive route available, and it asked the government to consider whether there was an alternative route. The court further found that in September there were 43 remaining petitions regarding other portions of the wall that now would be decided by the court.

At the end of the year, the route of the barrier divided approximately 142,641 acres with a population of 49,400 Palestinians from the rest of the West Bank. According to OCHA the barrier impeded Palestinians from reaching their land to harvest crops and graze animals. Residents' access to schools, medical care, and other services was also impeded. In October 2003 Israeli military orders required the approximately five thousand Palestinians residing in "seam zones" between the separation barrier and the Green Line to obtain residency permits to remain in these areas. Permits are valid for up to a year for residents and only for one gate.

Areas near the barrier or its projected route have been designated as military zones; Palestinians had no expectation they could obtain permits to build near Israeli communities or the barrier.

During periods of unrest (in the aftermath of terrorist attacks or during military exercises), Israeli authorities prohibited travel between some or all towns within the territories. Such "internal closures" were supplemented, during periods of potential unrest and during major Israeli and Muslim holidays, by "comprehensive, external closures," which precluded Palestinians from leaving the territories. During the year there were no extended blanket closures, although several Gaza crossing points were simultaneously closed for extended periods, completely closing off Gaza. During most of the year, Israeli authorities prohibited passage between Gaza and the West Bank. At year's end bus convoys outlined in the November 15 Agreement on Movement and Access had not begun. On September 7, Israeli authorities closed the Rafah terminal. Following the disengagement from Gaza, the PA and Egypt periodically opened the terminal to pedestrian traffic. On November 25, the Rafah terminal reopened, marking the first time the PA independently operated an international border crossing, although under European Union monitoring. At year's end as a general rule, only Palestinian identification holders could transit this crossing.

On December 28, Israeli authorities, in response to Qassam rocket fire, implemented a "buffer zone" in the northern Gaza Strip encompassing former Israeli settlements. Palestinian militants had used the area to fire rockets at Israeli communities.

Since 1993 Palestinians could enter East Jerusalem only with a travel permit issued by Israeli authorities. Israel also imposed curfews in some areas, which confined Palestinians to their homes in areas where the IDF conducted military operations. Following the June 12 suicide bombing in Netanya, the IDF imposed a curfew on Tulkarm lasting over three days. On June 20, the IDF imposed a curfew on Baqa al-Sharqiyah, near Tulkarm, for one and a half days following the killing of an Israeli civilian (see section 1.a.). In December 2004 a terrorist attack extensively

damaged the Rafah terminal and killed five Israeli soldiers. The IDF closed the terminal until February 1.

The PA issued passports for Palestinians in the West Bank and Gaza. Because there are no commercial flights from the territories, travelers must depart by land into Jordan or Egypt. Transit passes for travelers using Ben Gurion airport were not available, except for a few humanitarian cases. NGOs claimed that Israeli authorities harassed their representatives who were attempting to enter via Ben Gurion airport.

Palestinians with Jerusalem identification cards issued by the Israeli government needed special documents to travel abroad. Upon request the Jordanian government issued passports to Palestinians in the West Bank and East Jerusalem. Palestinians in East Jerusalem who wish to travel to Jordan must leave their Israeli identification documents with Israeli authorities at the Allenby Bridge. Travelers could obtain applications for bridge-crossing permits to Jordan at East Jerusalem post offices. Screening was conducted at Allenby Bridge.

External and internal closures contributed to increased unemployment and poverty. Approximately 146 thousand West Bank and Gaza workers, representing approximately 25 percent of the Palestinian work force, depended on day jobs in Israel, Israeli settlements, and Jerusalem. Closures impeded Palestinians from reaching jobs or markets in the occupied territories and disrupted internal and external trade. The unemployment rate was estimated at 28 percent at year's end. In addition Israel's strict closure policies frequently restricted the ability of Palestinians to reach places of worship.

In November 2004 the IDF arrested four Birzeit University students from Gaza who lacked permits to stay in the West Bank and returned them to Gaza. Since 2000 many of the 350 Gazans enrolled in Birzeit returned home after West Bank permits expired. During the year there were approximately 35 Gazans studying at the university, many of whom had not seen their families in 4 years.

Apart from closures, delays at checkpoints and roadblocks affected all aspects of life, particularly emergency health care. According to OCHA in the West Bank at year's end, there were 463 obstacles to movement, including 49 fully manned checkpoints, 10 occasionally manned checkpoints, 261 earth mounds blocking roads, 54 cement roadblocks, 53 road gates, 15 earthen walls, 10 trenches, and 11 road protection fences. In addition there were 65 gates along the separation barrier. Of the gates along the separation barrier, 27 were accessible to Palestinians in possession of permits, 27 were for the IDF and closed to Palestinian traffic, and 11 gates were opened only during the olive harvest season. The operating hours of the accessible gates to Palestinians were sometimes limited and irregular.

According to comments quoted in the Israeli press, on September 6, Defense Minister Mofaz instructed IDF soldiers to display "no pity" at checkpoints in the West Bank, adding that security concerns were paramount to any delays or anger of those having to pass through the checkpoints.

According to OCHA the 463 obstacles to movement in the West Bank, compared with 680 in November 2004, 605 in April, and 376 in August. The reduction since November 2004 stemmed from the removal of earth mounds and concrete roadblocks and from the completion of the separation barrier in some areas. Although ambulance response times improved as Israeli authorities issued additional permits, many problems remained, including for ambulances attempting to reach remote West Bank villages.

Villagers from Jayyus, in the West Bank, were unable to exit the village to tend fields or graze sheep. On April 8, the Israeli civil administration (Qalgilya region) notified Jayyus residents that the IDF intended to confiscate eight *dunums* (approximately three acres) of their farmland along the Palestinian side of the separation barrier to create a security road. The civil administration also reportedly told residents that the IDF would close two barrier gates that provided the only available access to their land on the barrier's western side. Palestinians said the confiscation and closures would bar them from land they own and rely on for income. At year's end only Palestinian farmers with valid permits from the civil administration could access Jayyus lands west of the barrier; during the year Israeli authorities rejected 118 applications for access permits.

On February 15, a Palestinian woman gave birth at the Qalandiya checkpoint with assistance from PRCS medical staff after the IDF prevented her husband from crossing the checkpoint in his vehicle. Israeli officials forbid Palestinian-plated vehicles from crossing at the Qalandiya checkpoint.

On April 12, a Palestinian male died in a PRCS ambulance at the Bayt Iba checkpoint after a 20-minute delay by IDF authorities. PRCS medics failed to revive the man, who was being transported to a hospital in Nablus.

On March 13, Israeli settlers from Ma'on attacked and beat Palestinian shepherds from Jawayah village grazing sheep in an agricultural area near the Ma'on settlement. The following day settlers from Ma'on shot at and attacked the Palestinian shepherds. Israeli authorities have not implemented adequate measures to protect the Palestinians from such abuses.

Palestinians residing in the Israeli-controlled section of Hebron (H2), which includes the Old Arab Market and areas adjacent to four Israeli settlements, faced extensive restrictions on movement. According to OCHA there are 101 significant obstacles to movement in H2. Access for Palestinians to the Old City was limited to six IDF-controlled gates. IDF closures of businesses, prolonged curfews, and settler harassment forced Palestinian shopkeepers to relocate. Of the 1,610 shops officially licensed in H2 before September 2000, more than a thousand closed, one-third by military order. Attendance at 3 Palestinian schools near 4 Israeli settlements in Hebron declined by almost 50 percent. These children were harassed when attempting to walk to the schools.

Israel offered Palestinian residents citizenship following its 1967 occupation of East Jerusalem. Most chose not to accept Israeli citizenship but instead sought a residence permit, known as a Jerusalem identification card. Under the law such residents risk loss of status if their ties with Jerusalem lapse, although human rights groups reported that such revocations were infrequent and selectively enforced. In July 2004 an Israeli ministerial committee reportedly adopted an unpublished resolution calling for the application of the 1950 Absentee Property Law to East Jerusalem. On February 1, the Israeli attorney general ordered the government not to apply the Absentee Property Law to land and buildings in East Jerusalem owned by Palestinians living in the West Bank; in point of fact, the government apparently had not attempted to implement that law in East Jerusalem.

The Israeli government, under the interior ministry, and the Jerusalem municipality continued to demolish Palestinian houses and other structures in East Jerusalem constructed without building permits. It was a slow and expensive process for Palestinians to receive permits to build in East Jerusalem.

Residency restrictions affected family reunification. Israeli authorities did not permit Palestinians who were abroad during the 1967 War, or who subsequently lost residence permits, to reside permanently with their families in the occupied territories. It was difficult for foreign-born spouses and children of Palestinian residents to obtain residency. Palestinian spouses of Jerusalem residents must obtain a residency permit and reported delays of several years before being granted residency. The Israeli government occasionally issued limited-duration permits, but renewing the permits could take up to eight months, which resulted in many Palestinians falling out of status. Palestinians in East Jerusalem also reported extensive delays in registering newborn children with Israeli authorities.

Neither the Israeli government nor the PA used forced exile or forcibly deported anyone from the occupied territories during the year.

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

*Elections and Political Participation.*—Following the November 2004 death of PA Chairman Yasir Arafat, Palestinians elected Mahmud Abbas as PA president on January 9. Seven candidates competed in a vigorous election campaign. The Israeli government and the PA followed the 1996 parameters for Palestinians residing in East Jerusalem to vote, but inadequate arrangements kept turnout in Jerusalem low.

In December 2004 the PA held municipal elections in 26 West Bank localities for the first time since 1976. The PA held additional municipal elections in Gaza on January 27; a second round of elections on May 5 in Gaza and the West Bank; a third round on September 29 in the West Bank; and a fourth round on December 15 in the West Bank. Domestic and international election observers found these elections met democratic standards, while noting several technical and procedural problems. The PA had yet to schedule additional rounds of municipal elections in the remaining West Bank and Gaza municipalities.

The 88-member PLC and Chairman of the Executive Authority were elected in 1996 in a process that international observers concluded generally met democratic standards, despite some irregularities. The PLC rescheduled legislative council elections from July to January 25, 2006.

On November 28, violence and reported fraud disrupted voting in primary elections to determine Fatah candidates for the January 25, 2006, legislative council elections; primary elections were suspended in Gaza and the West Bank. Efforts to organize the electoral system, candidate and party lists, and campaign rules continued through year's end.

In September 2004 the Palestinian cabinet adopted a one-year reform action plan, approved by the PLC to create a more equal balance of power between the executive and the PLC and to introduce greater accountability and transparency in its governance. The March 1 Quartet-sponsored London meeting provided additional support to the PA's efforts to reform government transparency and improve the economy. During the year the PA made little progress.

While Palestinians with residency permits were eligible to vote in Jerusalem municipal elections, most did not recognize Israeli jurisdiction in Jerusalem and did not participate. There were no Palestinians on the Jerusalem City Council.

During the year there were 5 women on the 88-member PLC, and 2 women served in ministerial-level positions. There were six Palestinian Christians in the PLC.

Israeli authorities restricted Palestinian political activity, especially in East Jerusalem where several candidates in the January PA presidential elections were detained after attempting to campaign without a permit.

*Government Corruption and Transparency.*—There was a widespread public perception of PA corruption, notably within the security forces. Many social and political elements called for reform. The PA security forces made little progress in rationalizing the security forces payroll and rooting out corruption in the services. On September 18, Abbas appointed a new attorney general to focus on corruption. Local NGOs praised the appointment and hoped he would effectively address PA corruption. At year's end the attorney general had announced investigations into several corruption cases. PA members and the general Palestinian public widely criticized the growing lawlessness inside the West Bank and Gaza and the failure by PA security forces to provide security.

The law requires official PA institutions to "facilitate" acquisition of requested documents or information to any Palestinian; however, the law does not require any PA agency to provide such information. Many Palestinians cited the law when seeking to acquire information; however, there were no PA court cases. NGOs sought to make it mandatory to provide information to Palestinians; however, there was no action during the year.

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

Local Palestinian human rights groups and several international organizations monitored the PA's human rights practices. By the end of the year, approximately 305 NGOs were registered; another 45 remained in processing.

PA officials usually met NGO representatives. Since the beginning of the Intifada, public NGO criticism was somewhat less forthcoming; several NGOs voluntarily decided to defer criticism of the PA's human rights performance. Observers noted documentation of abuses was very limited. NGOs, however, criticized the PA's inadequate security performance.

In March 2004 in Gaza City, unknown assailants shot and killed Khalil al-Zaban, a journalist and advisor to then PA president Arafat on human rights and the media. Al-Zaban headed the PA's government-appointed NGO Council and published its monthly newsletter. He criticized both Islamic militancy and those critical of the PA, particularly on human rights. At year's end the killers and their motives remained unidentified.

Some PA security organizations, including the General Intelligence Service in the West Bank and the police, appointed officials as liaisons with human rights groups. These officers met human rights organizations and diplomats to discuss human rights cases.

Israeli, Palestinian, and international humanitarian and human rights NGOs monitored the Israeli government's practices in the occupied territories. The Israeli government permitted human rights groups to publish and hold press conferences and provided the ICRC and other groups with access to detainees (see section 1.c.). Some organizations criticized Israeli government practices and cooperation. During the year Israel established direct contact with NGOs and human rights groups. Human rights groups, however, continued to report that Israeli closures impeded and, at times, completely prevented their work.

In October 2004 members of the Christian Peacemakers Teams, AI, and an Italian NGO ("Operation Dove") escorted Palestinian children from the village of Tuwani to a nearby school. While walking past the settlement of Ma'on, masked settlers attacked the escorts with baseball bats, seriously injuring a volunteer. At year's end the assailants had not been identified or apprehended.

In January 2004 Thomas Hurndall, a British International Solidarity Movement (ISM) activist, died from injuries sustained in 2003 when an IDF soldier shot him as he attempted to move Palestinian children to safety during clashes in Rafah. On August 11, an IDF court sentenced Sergeant Wahid Taysir, earlier convicted of man-



slaughter and obstruction of justice in Hurndall's killing, to eight years in prison. At year's end Taysir had begun serving his prison sentence.

On March 16, 2003, an Israeli bulldozer clearing land in Rafah in the Gaza Strip crushed and killed Rachel Corrie, 23, a US citizen peace activist. Corrie was standing in front of the bulldozer and was wearing a reflective vest. Eyewitness demonstrators stated that they believe the driver knew Corrie was in front of the bulldozer as he proceeded forward. IDF investigations concluded that the operator was not negligent. US officials who have seen the IDF report found inconsistencies among the statements of those observing the incident. Some observers continue to raise questions concerning whether the investigation was thorough, credible, and transparent, and the Corrie family continued to pursue the case. In conjunction with the report of the IDF Judge Advocate General, the IDF implemented two remedial procedures for improved safety: the presence of more senior officers to oversee such operations and the designation of closed military zones with orders forbidding the presence of civilians in areas where IDF military operations are conducted.

In April 2003 gunfire from an undetermined source struck ISM activist Brian Avery. The IDF denied responsibility for the incident. Avery was walking outside during curfew in Jenin when an IDF armored personnel carrier approached him. In December 2004 a lawyer petitioned the Israeli high court to require military authorities to investigate Avery's shooting. According to B'tselem an IDF internal investigation concluded it was impossible to determine whose gunfire hit Avery. On February 28, the high court ordered the IDF to investigate the incident further; however, the Judge Advocate General, following the interview of civilian eyewitnesses, decided not to launch a criminal investigation. At year's end the high court had not decided whether to order the IDF to open a criminal investigation.

In 2003 Israel began requiring foreigners entering Gaza to sign a waiver providing that "the Government of the State of Israel and its organs cannot be held responsible for death, injury and/or damage/loss of property which may be incurred as a result of military activity." The requirement continued on a selective basis throughout the year.

UNRWA and other groups reported improvement in transporting goods to Palestinian refugees in the occupied territories, with some reported delays. Since October 2004 Israeli authorities have often denied UNRWA's staff access to the Barta'a area in the West Bank, due to lack of permits to enter the seam zone. UNRWA staff also reported some abuse and intimidation at the seam zone gates by IDF personnel.

UNRWA staff in the West Bank and Gaza had been harassed and staff members kidnapped by Palestinians. On May 18, three armed Palestinian gunmen entered an UNRWA clinic in the al-Fariah refugee camp in the northern West Bank, threatened an UNRWA doctor, fired shots into the air, proceeded to the UNRWA girls' school, threatened the school's principal, and demanded the school dismiss one of the teachers.

On August 8, the ICRC suspended operations in Gaza after unidentified Palestinians fired bullets at its offices in Khan Yunis. On August 16, the ICRC resumed operations after receiving PA security assurances.

For four years Israeli authorities have denied access to Gaza to Physicians for Human Rights, which offered weekly "mobile clinics" in Palestinian villages, and the group had only limited access to the West Bank.

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

The law states that all Palestinians are equal without discrimination because of race, gender, color, religion, political views, or disability.

*Women.*—There was no reliable data on the incidence of violence against women. PA law does not explicitly prohibit domestic violence, but assault and battery are crimes. There were reports that Palestinian domestic violence had increased since 2000. Human rights groups reported an increase in family "honor" killings during the year.

During the year family members killed four women and injured another in so-called honor crimes, according to human rights groups. On May 2, two sisters from East Jerusalem were strangled and a third severely injured by their older brother. One sister reportedly engaged in an extramarital relationship, and the others tried to intervene to save her. On April 30, the father of a Palestinian Christian woman from Ramallah fatally bludgeoned her, reportedly in response to her relationship with a Palestinian Muslim. In September clashes erupted between Christians in Taybeh and Muslims from nearby villages after the family of a Muslim woman killed her for reportedly engaging in a relationship with a Christian man.

Rape is illegal, but its legal definition does not address spousal rape.

Women's shelters do not exist. Women generally approached village or religious leaders for assistance.

Prostitution is illegal. There was no openly practiced prostitution.

There were no special laws regarding women's rights in the workplace. Before 2000 women increasingly worked outside the home, often encountering discrimination and, occasionally, sexual harassment. Women were underrepresented in professional life, although a small group was prominent in politics, medicine, law, teaching, and NGOs.

Palestinian women endured social prejudice and repression. Education and cultural restrictions associated with marriage occasionally prevented women from completing mandatory schooling or attending college. Families often disowned Muslim and Christian women who married outside their faith. Local officials sometimes advised such women to leave their communities to prevent harassment.

For Muslims personal status law is derived from Shari'a (Islamic law). Ecclesiastical courts rule on personal status issues for Christians. Shari'a pertaining to women is part of the 1976 Jordanian Status Law, which includes inheritance and marriage laws. Women can inherit under Shari'a but not an equal share. Legally, men may take more than one wife; the practice was rare. Women may make "stipulations" in marriage contracts to protect their interests in divorce and child custody; however, only an estimated 1 percent did so. Children often stayed with the mother after divorce. Until a child reached legal maturity, men paid child support and alimony, depending on the man's income.

*Children.*—Although MOEHE's stated commitment is to provide children access to educational facilities and ensure their welfare, it must rely on the international community for assistance to build capacity for child protection and development.

The PA provides for compulsory education through the ninth grade. The MOEHE and Central Bureau of Statistics contrasted 2004–05 basic school enrollment (89.2 percent in grades 1 to 10) with much lower enrollment at the secondary stage (10.8 percent in grades 11 and 12), concluding this indicated a significant dropout rate. Girls who married before the ninth grade left school at the behest of husbands, and in rural areas and refugee camps, boys left school to help support their families.

Internal closures, checkpoints, and the separation barrier significantly impeded students and teachers in reaching educational facilities (see sections 2.a. and 2.d.).

In areas under curfew, all classes were cancelled. In 2004 and during the year, the number and frequency of curfews declined; the majority of restrictions centered around closures. Prior to the Israeli withdrawal from Gaza in August, one thousand UNRWA teachers in the south of Gaza had to travel through checkpoints to schools in north and central Gaza. Nearly 76 percent of UNRWA's schools operated double-shifts with average classrooms of 40.5 pupils.

Education and health care professionals judged that the violence produced lack of focus, nightmares, and behavioral problems. OCHA reported during the year that 42 percent of students in Gaza recorded lower school achievement since 2000. One-third of Palestinian children have had their education disrupted.

OCHA reported that since September 2000, Palestinian universities had approximately \$4.85 million (22.3 million NIS) of infrastructure destroyed due to Intifada violence, while Palestinian schools suffered \$5.2 million (23.9 million NIS) of damage. According to the MOEHE, 4 percent (150 thousand students) of the Palestinian population pursued higher education studies at 11 universities, 5 university colleges, and 25 society colleges in the West Bank and Gaza.

According to a 2003 report by the Jerusalem Center for Social and Economic Rights, Palestinians constituted 33 percent of the city's total population, but the municipal budget accorded to East Jerusalem was only 10.9 percent. As a result East Jerusalem schools were underfunded and overcrowded, and schools refused to enroll new students due to lack of classroom space.

In 2001 the Israeli high court ordered the municipality to build 245 new classrooms within the next 4 years. Over the past 4 years, the municipality budgeted for 47 new East Jerusalem classrooms; however, none were built. Of the 161 classrooms built in East Jerusalem within the last 4 years, 148 were budgeted during the 1990s and under construction at the time of the 2001 ruling. At year's end no classrooms were under construction.

On September 11, 10 thousand East Jerusalem students stayed home after their parents called a strike to protest lack of classrooms and "intolerable" conditions. The Israeli education ministry blamed East Jerusalem residents, claiming classroom shortage resulted from residents' refusal to sell land for school construction.

In August Palestinian teachers living in the West Bank were directed to obtain permits to cross the checkpoints to reach their schools in East Jerusalem. After extended delays, by December 21, authorities issued 237 of a total of 249 requested. In the interim the MOEHE used substitute teachers and asked teachers with access to East Jerusalem to carry a double load of classes.

The PA health ministry immunized children, and PA insurance provided basic children's medical care, for a small monthly fee. The latest available figures showed a slight improvement in nutrition from 2003 when 3.4 percent of Palestinian children suffered from acute malnutrition and 10.7 percent suffered from chronic malnutrition.

Child abuse was not a widespread problem. The law does not explicitly prohibit child abuse, but sanctions parents who failed to protect children from abuse. PA courts may protect children in cases of neglect or abuse.

The law provides that no one under 14 can work. Those between 15 and 18 can be employed under limited conditions (see section 6.d.). There is no juvenile court system, but certain judges specialized in juvenile cases.

International and domestic NGOs promoted educational, medical, and cultural services for children, and other groups specialized in the needs of children with disabilities.

Palestinian terrorist groups used minors to conduct attacks, smuggle weapons, or act as human shields. On August 29, the IDF arrested a 14-year-old Palestinian at the Huwwara checkpoint, near Nablus, as he attempted to smuggle three pipe bombs.

*Trafficking in Persons.*—Palestinian law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the occupied territories.

*Persons with Disabilities.*—Access to public facilities was not mandated in the occupied territories. There was discrimination against Palestinians with disabilities in most spheres, including education, employment, transportation, and access to public facilities. The Health, Development, Information, and Policy Institute estimated that 10 percent of the approximately 29 thousand Palestinians injured in the past 5 years would have permanent disabilities.

Care for Palestinians with disabilities was a problem. Some institutions cared for persons with disabilities; however, they were underfunded. Cultural stigmas and inadequate funding resulted in poor quality care. The PA depended on NGOs to care for persons with physical disabilities and offered substandard care for those with mental disabilities. In February 2004 the health ministry, with input from the World Health Organization (WHO), released a strategy for mental health services calling for increased care for mental health patients and their reintegration into the community. During the year the health ministry worked closely with WHO to formulate a five-pronged strategy to develop public mental health services in the West Bank and Gaza.

*Other Societal Abuses and Discrimination.*—There is no legal discrimination against homosexuals, and there were no specific reports of abuse because of sexual orientation. However, cultural traditions and religion reject homosexuality, and Palestinians alleged that public and PA security officers harassed, abused, and sometimes arrested homosexuals because of their sexual orientation.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law permits workers to form and join unions of their choice without previous authorization. In March 2003 the International Labor Organization (ILO) funded the Department of Law at Birzeit University to lead a project to disseminate the 2001 labor law and to draft bylaws. Birzeit gathered employers and union representatives to discuss the labor law, and the group developed 28 bylaws. All the bylaws were approved by the PA during the period from 2004 to year's end and were published in the *Palestinian Gazette*.

Workers may establish unions without government authorization. The two most active union organizers are the General Union for Palestinian Workers and the Palestine General Federation of Trade Unions (PGFTU). The PGFTU is a member of the international confederation of free trade unions. Both are registered with the labor ministry.

Workers in Jerusalem may establish unions but may not join West Bank federations; however, this restriction was not enforced. Workers holding Jerusalem identity cards may belong simultaneously to West Bank unions and the General Federation of Labor (Histadrut).

Palestinians working in Israel or Jerusalem prior to 2000 were partial members of Histadrut; 1 percent of their wages was withheld. Partial membership entitled them to limited benefits. Histadrut and West Bank union officials negotiated an agreement in 1995 to transfer half of this fee to the PGFTU, which claimed it was owed \$6.5 million (29.9 million NIS). One Palestinian official, however, claimed Histadrut owed Palestinians \$2.2 million (10.1 million NIS).

The labor law provides for the right to strike. Prospective strikers must provide written warning to the other party and the ministry of labor two weeks in advance of the basis for the strike. (Strikes affecting public utilities require four weeks notice.) In practice strikers had little protection from retribution. Unions seeking to strike must accept labor ministry arbitration and are subject to disciplinary action if they reject the result.

*b. The Right to Organize and Bargain Collectively.*—A majority of workers in the occupied territories were self-employed or unpaid family helpers. Approximately 35 percent worked for wages. UNRWA and the PA employed most such workers. The labor law stated that a mediator from the ministry should resolve conflicts. If the ministry cannot resolve a dispute, it can be referred to a special committee and, eventually, to a special court. Accordingly, in practice the right to strike remained questionable.

There were no export processing zones in the occupied territories, although the Gaza Industrial Estate previously enjoyed free trade access to foreign markets.

*c. Prohibition of Forced or Compulsory Labor.*—The law states that work is a right, duty, and honor and that the PA will strive to provide it to any individual capable of performing it. According to a labor ministry official, the PA also interpreted this law to mean that forced and compulsory labor is prohibited. The law also states that children shall not be exploited or allowed to perform work, which might damage their safety, health, or education.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum employment age is 15, and there are special conditions for employment between 15 and 18. The law prohibits minors from working at night, hard labor, and travel beyond their domicile. However, many underage children worked in family farms and shops, as street vendors, or in small manufacturing enterprises. Representatives from the PA ministries of labor and social affairs said Palestinian children working in Israeli settlements faced security problems, exploitation, and harassment since there was no enforceable law to monitor and protect child laborers. Officials said Palestinian child workers illegally entered green-line Israel where they could be exploited.

The high secondary school dropout rate (see section 5) implied a significant level of child labor. As of September the PA had only 10 child labor inspectors for the West Bank and Gaza.

The ILO and UNICEF worked with the PA to develop its capacity to protect child rights. UNICEF representatives reported it worked to promote education in projects targeting attitudes and practices of caretakers and children. The PA has an agreement with the ILO to allow ILO's International Program for the Elimination of Child Labor (IPEC) activities in West Bank and Gaza; however, IPEC reported no activities during the year.

*e. Acceptable Conditions of Work.*—There was no minimum wage. Prior to 2000 average wages for full-time workers provided a decent living standard; however, the living standard dropped significantly over the past five years.

The normal workweek was 45 to 48 hours, but maximum workweek laws were not effectively enforced. The PA observed religious holidays but they were not formally incorporated in labor law. Although it is not obligatory for an employer to provide Christians with Sunday off, employers are required to allow Christians to attend church on Sunday if the employee desires. In some establishments employers offered Christians the option of taking Sunday off, rather than Friday.

The PA labor ministry was responsible for safety standards, but its enforcement ability was limited. The ministry stated new factories and workplaces met international health and safety standards, but older ones did not. Palestinians who worked in Israel must contribute to the National Insurance Institute and received limited benefits.

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## JORDAN

The Hashemite Kingdom of Jordan is a constitutional monarchy ruled by King Abdullah II bin Hussein, with a population of approximately 5.8 million. The constitution concentrates executive and legislative authority in the king. At his discretion the king may appoint and dismiss the prime minister, members of the cabinet, and upper house of parliament; dissolve parliament; and establish public policy. On April 7, King Abdullah approved a new cabinet under Prime Minister Adnan Badran; subsequently, on November 7, King Abdullah formed a new cabinet under Prime Minister Marouf al-Bakhit. The new cabinet under Bakhit won a vote of con-

fidence from the lower house of parliament with 78 percent of the vote. The parliament consists of the 55-member House of Notables (Majlis al-Ayan), appointed by the king, and a 110-member elected lower house, the Chamber of Deputies (Majlis al-Nuwwab). The 2003 multiparty parliamentary elections were generally considered to be free and fair; however, the election law significantly underrepresented urban areas. In the wake of the August 19 and November 9 terrorist attacks, that latter of which killed more than 60 persons, the government announced that its priority would be to ensure public security while at the same time respecting civil liberties. Civilian authorities generally maintained effective control over the security forces, although there were some instances in which members of the security forces committed serious human rights abuses.

Although the government respected human rights in some areas, its overall record continued to reflect problems. The following human rights problems were reported:

- restrictions on the right of citizens to change their government
- allegations of torture
- continued police abuse and reported mistreatment of detainees
- arbitrary arrest and prolonged detention
- instances of impunity
- denial of due process of law
- limited judicial independence
- infringement on citizens' privacy rights
- harassment of members of opposition political parties
- restrictions on freedom of speech, press, assembly, association, movement, and on some religious practices
- legal and societal discrimination against women
- "honor" crimes
- child abuse
- discrimination against Palestinians
- restrictions on labor rights
- abuse of foreign domestic workers

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports during the year of arbitrary or unlawful deprivation of life by the government or its agents.

In recent years authorities have sometimes been willing to conduct transparent investigations and have, occasionally, disclosed results. However, there were instances of impunity where security services were reluctant to conduct transparent investigations into allegations of wrongful deaths that occurred during police detention in previous years.

In 2002 US Agency for International Development official Lawrence Foley was shot and killed in front of his home. In April 2004 five men accused in the killing were convicted, some in absentia. The government announced that one suspect, Muammar al-Jaghbir, convicted and sentenced to death in absentia, was in custody as of July 2004 and would be retried in accordance with the law, which provides for a new trial in such circumstances. His retrial, which was postponed until June, included charges that al-Jaghbir was responsible for the 2003 bombing of Jordan's embassy in Baghdad. He pleaded not guilty to those charges as well as the charges related to Foley's assassination.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police and security forces allegedly abused detainees during detention and interrogation and reportedly also used torture. Allegations of torture were difficult to verify because the police and security officials frequently denied detainees timely access to lawyers. The most frequently reported methods of torture included beating, sleep deprivation, extended solitary confinement, and physical suspension. Defendants charged with security-related offenses before the State Security Court claimed they were tortured to obtain confessions and claimed to have been subjected to physical and psychological abuse while in detention.

Government officials denied many allegations of detainee abuse, pointing out that many defendants claimed abuse in order to shift the focus away from their crimes.

During the year defendants in nearly every case before the Security Court alleged that they were tortured while in custody. At times the courts requested prison administrators to treat inmates in accordance with the law. A December 26 report issued by the National Center for Human Rights (NCHR) reported on allegations of mistreatment at prisons and detention centers, including that inmates were subjected to beatings.

NCHR's May 31 report, *The State of Human Rights in the Hashemite Kingdom of Jordan*, stated that the court system does not provide sufficient guarantees to prevent torture and other forms of abuse at the hands of the authorities.

In May 15 men accused of planning terrorist attacks in the country claimed that their confessions were extracted under torture. The main defendant in that case, Abed Shehadeh Tahawi, claimed that security forces fabricated the case against him because he is an Islamist preacher. One of the defense lawyers claimed that the security forces used chemicals to hide evidence of torture. He also claimed that the prosecution did not read the defendants their indictment sheet when they were brought in for questioning.

In July four Islamist defendants standing trial for plotting to attack liquor stores retracted their confessions, claiming they were extracted under torture. Their attorneys claimed the men were denied their right to have an attorney present during their interrogations. Also in July relatives of seven men standing trial for plotting attacks on tourists testified that they believed the defendants had been tortured, because their imprisoned relatives looked weak and had told them they had confessed under duress.

On August 9, the Arabic daily *Al-Ghad* reported that a student claimed he was abused by police in Irbid. The police had intervened in a dispute between the accuser and another youth. The student claimed that police beat him on the head and that his eardrums burst as a result. The authorities opened an investigation into the claims, and the NCHR was following the case.

Affiliates of fugitive Abu Musab al-Zarqawi, convicted in absentia in April 2004 of killing Lawrence Foley in 2002 (see section 1.a.), claimed their confessions were extracted under duress. Muammar Jaghbir, who was sentenced to death in absentia for killing Foley and subsequently apprehended and retried, was detained by the security forces for six months of interrogation before appearing in court. Zarqawi's nephew, Omar al-Khalayleh, who was sentenced in May 2004 with two others for plotting against foreign tourists, also claimed torture during his trial.

During his trial in 2004, detained al-Zarqawi accomplice Miqdad al-Dabbas claimed that his confession was made under duress. He was sentenced in April to 15 years in prison for plotting attacks against Jordan's embassy in Baghdad.

In the continuing prosecutions of the 14 men accused of inciting the 2002 uprising in Ma'an—this time facing new charges during the year of illegal possession of automatic weapons, plotting subversive acts, illegal public assembly, and illegal importation and use of weapons—the defense alleged that prison officials mistreated and intimidated the defendants. The allegations included seizure of books and other property and denial of medical treatment to al-Shalabi. The head of the Public Security Directorate (PSD) press office denied these claims, stating that prison guards only removed illegal items during inspection tours. According to local media, PSD records showed that al-Shalabi was referred to a prison hospital when he complained of kidney pains, which hospital officials said were the result of a kidney stone.

Human rights activists reported a number of cases of beatings and other abuses of individuals in police custody during the year. Human rights activists also claimed that detainees were often held incommunicado for up to two months after arrest.

In December Human Rights Watch sent a letter to the prime minister asking him to investigate an apparent miscarriage of justice, in which two people were convicted in the murder of Najih Khayyat. The first defendant, Bilal Musa, confessed to killing 1 man in self defense, and later to killing Najih Khayyat and 9 others; he claimed that the latter 10 confessions were extracted under duress. Musa was executed in 2000. Later, Zuhair Khatib confessed to killing Najih Khayyat. On May 15, the same judges who tried and convicted Musa sentenced Zuhair Khatib to death for Khayyat's murder. The court subsequently reversed its verdict in Khatib's case and exonerated him.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. Prisons were still overcrowded and understaffed with poor sanitary conditions and inadequate food and health care. There were reported instances of torture and harsh and inhumane treatment (see section 1.c.).

On December 26, NCHR, a quasi-governmental body with educational, protective, and reporting responsibilities, issued its third report on the condition of the coun-

try's prisons. The report noted that although the government has improved some facilities, more needed to be done. NCHR recommended that the government close Al Jafer prison, located in the desert 155 miles south of Amman. Since the prison is geographically isolated, NCHR contended that the inmates have limited access to lawyers. The report also mentioned high illiteracy rates among inmates overall in the country, which contributed to their ignorance of their rights to seek legal assistance.

The government held men, women, and juveniles in separate prison facilities. Although the general intelligence directorate (GID) held some persons detained on national security grounds in separate detention facilities, the government held other security detainees and prisoners in regular prisons. While security prisoners often were separated from common criminals, conditions for such prisoners did not differ significantly.

Local human rights monitors were allowed to visit prisons. NCHR made 11 visits to prisons between October 2004 and October of this year. The International Committee of the Red Cross (ICRC) was permitted access to prisoners and detainees, as well as to all prison facilities.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the government did not always observe these prohibitions. The law provides that citizens are subject to arrest, trial, and punishment for the defamation of heads of state or public officials and dissemination of “false or exaggerated information outside the country that attacks state dignity.” Criminal laws generally require warrants; however, in most cases suspects may be detained for up to 48 hours in the absence of a warrant. Police made several arrests during the year prior to obtaining warrants.

*Role of the Police and Security Apparatus.*—The PSD controlled general police functions. The director of the PSD had access to the king when the seriousness or urgency of a matter demanded it. The PSD, GID, and the military shared responsibility for maintaining internal security, and had authority to monitor security threats. The PSD reports to the interior minister and the independent GID reports directly to the king. Thirteen different offices form the basic structure of the PSD. Two are Preventative Security and Complaints and Human Rights. Each of the 12 provinces has a police department that also falls under the authority of the PSD director. Security and policing activities were effective.

The PSD's Preventative Security Office investigates officers' performance. Incidents of poor officer performance ultimately are reported to the PSD director's office (see section 1.c.). Corruption within the PSD has not been a significant issue, and there are mechanisms in place to investigate police abuses. Citizens may file a complaint about police abuse or corruption to the Office of Complaints and Human Rights. Citizens filed 425 complaints during the year (see section 4). The head of this office reports directly to the PSD director. New officers in training receive special instruction on how to avoid corruption.

*Arrest and Detention.*—The criminal code requires that police notify legal authorities within 48 hours of an arrest and that legal authorities file formal charges within 10 days of an arrest; however, the courts routinely granted requests from prosecutors for 15-day extensions as provided by law. This practice generally extended pretrial detention for protracted periods.

In cases involving state security, the security forces arbitrarily arrested and detained citizens. The authorities frequently held defendants in lengthy pretrial detention, did not provide defendants with the written charges against them, and did not allow defendants to meet with their lawyers until shortly before trial. Defendants before the State Security Court usually met with their attorneys only one or two days before their trial. The criminal code prohibits pretrial detentions for certain categories of misdemeanors.

On June 26, Jordanian extremist Issam al-Barqawi, also known as Abu Mohammad al-Maqdisi, was released six months after being acquitted of plotting subversive acts and possessing explosives as part of an alleged terrorism plot. On July 5, he was re-arrested for allegedly contacting terrorist groups, and charged on July 18 with plotting subversive acts.

On November 9, a group of Iraqis carried out suicide bombings at three hotels in west Amman. One of the attackers, a woman married to another of the bombers, failed to detonate her explosives and was eventually captured by authorities. At year's end she had not been charged.

In the past human rights activists reported that the government detained journalists (see section 2.a.) and Islamists, for varying amounts of time for what appeared to be political reasons. This year the engineers' professional association requested that the prime minister intervene to release members who it maintained were being

held without charges. On September 27, the association issued a report covering June 2003 to June of this year, citing 17 cases in which members of the association were arrested and detained by the security services. Of the 17 cases, according to the report, only 4 were referred to court. The report said that the detainees were kept in solitary confinement and were denied access to lawyers.

In the past human rights groups also reported that there were a smaller number of long-term political detainees. At year's end at least 1 man, Samer Hilmi Al Barq, who taught at an Islamic school in Pakistan, remained in detention after approximately 18 months, without having been charged or referred to court.

Local governors have the authority to invoke the Preventing Crimes Law, which allows them to place citizens under house arrest for up to one year without formally charging them (see section 2.d.). House arrest may require persons to report daily to a local police station and impose a curfew. Persons who violate the terms of their house arrest may be imprisoned for up to 14 days.

The government used the threat of detention to intimidate journalists into practicing self-censorship (see section 2.a.).

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary. In practice there was independent decisionmaking; however, the judiciary was not impervious to family and tribal influence. The Higher Judiciary Council, a committee led by the president of the court of cassation, and comprised of other high-ranking officials from the various courts and the Ministry of Justice, determines judicial appointments, assignments, and evaluations. The Higher Judiciary Council remains under the administration of the Ministry of Justice.

Unlike in previous years, there were no allegations that judges were “reassigned” in order to remove them from particular proceedings. However, judges were still temporarily assigned to other courts due to workflow.

The judicial system consists of civil, criminal, commercial, security, and religious courts. Most criminal cases are tried in civilian courts, which include the courts of appeal, the court of cassation, and the high court of justice. The State Security Court, composed of both military and civilian judges, has jurisdiction over offenses against the state and drug-related crimes.

The religious courts are subdivided into Shari'a (Islamic law) courts and tribunals for non-Muslim religious communities. Shari'a courts have jurisdiction over all matters relating to the personal status of Muslims, including marriage, divorce, and inheritance. Christian courts have jurisdiction over marriage and divorce cases among Christians, but apply Shari'a in inheritance cases (see section 5).

*Trial Procedures.*—The law provides that all civilian court trials are open to the public unless the court determines otherwise. Defendants are entitled to legal counsel, may challenge witnesses, and have the right to appeal. Defendants facing the death penalty or life imprisonment must be represented by legal counsel. Public defenders are provided if the defendant is unable to hire legal counsel. All citizens are accorded these rights. Civil, criminal, and commercial courts accord equal weight to the testimony of men and women; however, in Shari'a court the testimony of two women is equal to that of a man's in most circumstances (see section 5). Defense attorneys are guaranteed access to government-held evidence relevant to their clients' cases.

The State Security Court consists of a panel of three judges, two military officers and one civilian. More than a dozen cases were tried or were ongoing in the State Security Court during the year. Like the civilian courts, proceedings of the court are open to the public. Defendants tried in this court were often held in lengthy pretrial detention and refused access to legal council until just before the trial. State Security Court judges inquired into allegations that defendants were tortured and allowed the testimony of physicians regarding such allegations (see section 1.c.). The court of cassation ruled that the State Security Court may not issue a death sentence on the basis of a confession obtained as a result of torture. Defendants in this court have the right to appeal their sentences to the court of cassation, which is authorized to review issues of both fact and law, although defendants convicted of misdemeanors in the State Security Court have no right of appeal. Appeals are automatic for cases involving the death penalty.

The press and publications law permits journalists to cover State Security Court proceedings unless the court rules otherwise. The press routinely reported on cases before the court, including all cases heard during the year. Such reporting routinely covered defense arguments and allegations of torture.

*Political Prisoners.*—There were no reports of political prisoners. However, throughout the year, there were reports of political detainees (see section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the government imposed limited restrictions on



these rights in practice. The law requires that security forces obtain a warrant from the prosecutor general or a judge before conducting searches or otherwise interfering with these rights; however, in security cases, the authorities obtained preapproved warrants. Security officers officially monitored telephone conversations and Internet communication, read private correspondence, and engaged in surveillance of persons considered to pose a threat to the government or national security. The law permits these practices if the government obtains a court order.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the government imposed significant restrictions on these rights in practice.

The Press and Publications Law and the Press Association Law (JPA) impose stringent restrictions on the operation of newspapers. The government also intimidated journalists to encourage self-censorship. Citizens may be prosecuted for slandering the royal family, the government, or foreign leaders, and for “sowing sedition.” Citizens generally did not hesitate to criticize the government openly, but exercised caution with regard to the king, the royal family, and the GID. The JPA require membership in the JPA for persons to be considered “legal” journalists or editors, which can potentially exercise control over content or threaten disciplinary measures. The law gives the association the authority to hold disciplinary councils against any journalists that violate the rules or ethics of the profession.

During the year there were reported instances of arrest and government harassment of journalists. Several journalists interviewed by the Committee to Protect Journalists (CPJ) reported that authorities pressured printers to delay publication of several newspapers until editors agreed to remove critical articles. Editors received phone calls from security officials instructing them how to cover certain events.

On March 14, authorities detained for questioning and later released a reporter for Arabic daily *Al-Ghad* on suspicion that he fabricated his published news report that a citizen, Raed Mansour al-Banna, had carried out a suicide bombing in Iraq. Two *Al-Ghad* editors were also interrogated.

On April 10, security officials reportedly delayed publication of the weekly *Al-Wihda* until editors removed an article by journalist Muwaffaq Mahadin. Mahadin told CPJ that the article was critical of how the government of Prime Minister Adnan Badran was formed, claiming that its selection was undemocratic.

In June Fahd al-Rimawi, editor of the weekly *Al-Majd*, told CPJ that publication of his May 8 edition was delayed by the printer under pressure from security officials. Authorities objected to *Al-Majd*'s planned interview with a member of parliament (MP) who supported the Iraqi insurgency and opposed the interim government of Iraqi Prime Minister Ibrahim al-Jaafari. According to al-Rimawi, the interview was removed from that week's edition after the MP was pressured to rescind his comments.

In June according to journalists, several newspaper editors received phone calls from security officials prior to Iraqi President Jalal Talabani's May visit to Jordan, instructing them to be careful not to support the insurgency in Iraq in their coverage.

On April 24, Ali Hattar, a member of the Jordan Engineers Association, was convicted of slandering the government in a public lecture in December 2004, and sentenced to either serve 3 months in jail or pay a \$254 (180 dinars) fine. Hattar chose to pay the fine to avoid the prison term. The charge stemmed from a speech in which he called for a boycott of American products and criticized American foreign policy.

The Press and Publications Law provides the government with limited ability to issue fines, transfers the power to withdraw licenses to the judiciary, limits significantly the government's power to order shutdowns, allows journalists to cover court proceedings unless the court ruled otherwise, and requires publications to be licensed. The law imposes strict limits on publications, which gave the government broad leeway to impose sanctions. The government used informants and censors at printing presses to inform it if particularly objectionable material was slated for print.

The penal code restricts free speech and allows for the prosecution of any person found to have written, published, or aired any statements that could be construed to harm or incite to harm or insult individuals or “the state's reputation and dignity.” The punishment for defamation of the king or royal family is three years in prison.

Journalists also may be prosecuted before the State Security Court for criminal and security violations. Although a substantial number of cases were dismissed be-

fore trial, in the past some cases lingered in the courts for years. The government routinely used detention and prosecution or the threat of prosecution to generate journalistic self-censorship (see section 1.d.).

In May the Center for Defending Freedom of Journalists, a nongovernmental organization (NGO) based in Amman, conducted a random survey of 100 practicing journalists. The majority of respondents judged press freedom as low in 2004. Additionally 40.6 percent responded that the government had interfered in their work while 59.4 percent said that the government interfered in the media in general.

The Press and Publications Department continued to enforce bans on the publication of selected books. Books were banned for religious, moral, and political reasons. On April 26, political activist Ali Sanid reported that the Press and Publications Department refused to grant him a license to publish his book *80 Days in the Jawida Prison*, which asserted that conditions in the country's prison system were deplorable and that inmates were tortured. In June the department banned the publication of a novel written by Saddam Hussein, on the grounds that it could harm ties with Iraq.

High taxes on media and tariffs on paper caused journalists to reduce the size of their publications. Journalists also criticized the government for advertising predominantly in newspapers in which the government owned shares.

The law provides foreign media operations freedom of expression.

Radio and television news broadcasts, more restricted than the print media, did not undergo any liberalization during the year. However, in 2004 the government licensed a new radio station and a satellite television broadcaster. Its projected starting date was deferred twice during the year, and is now scheduled for June 2006. Under commercial agreements with each entity, the government rebroadcasts the regional programs of the BBC, the London-based Middle East Broadcasting Center, Radio Monte Carlo, and Radio Sawa. Jordan Television reported only the government's position on controversial matters. International satellite television and Israeli and Syrian television broadcasts were available and unrestricted.

In the past the government opened investigations attempting to determine who was responsible for Internet sites that allegedly libeled the king; however, no one was known to have been prosecuted in such cases during the year. In the past there were reports of government interference with Internet access, including several Web sites that appear to have been blocked. During the year the government allowed Internet news sites to operate in the country, including those presenting news critical of the government.

The government limited academic freedom. Some academics claimed that they received frequent threats of dismissal. During the year sources in the academic community claimed that there was an ongoing intelligence presence in academic institutions.

During the year the University of Jordan continued to grant its president authority to appoint half of its 80-member student council, including the chair. This measure was viewed widely as an effort to curb the influence of campus Islamists. Many students, including non-Islamists, continued to object to the university's policy.

#### *b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly; however, the government restricted this right. Citizens must obtain permits for public gatherings. The government generally granted permits for protests it finds objectionable only after extensive negotiations with the organizers. The law requires the organizers of rallies and demonstrations request permission from provincial governors at least three days prior to any event. Under the law no protest may be held without the governor's consent, and violators face imprisonment from 1 to 6 months and a fine not to exceed \$4,230 (3 thousand dinars). In some cases the government granted approval at the last moment, making it difficult for organizers to plan the demonstrations.

On March 7, the government banned a planned demonstration of professional unions against a draft law barring professional associations from engaging in politics and deployed security forces to prevent the protest.

On August 19, approximately one thousand citizens marched to protest alleged threats to the Al Aqsa Mosque in Jerusalem. The governor of Amman initially refused the event organizers a permit on technical grounds, but a second request was approved the day before the march was scheduled to occur.

There were peaceful marches and protests against terrorism for several days following the November 9 Amman hotel bombings, which killed 60 persons.

In March 2004 the government detained protestors at the al-Wihdat refugee camp in the southern suburbs of Amman, claiming that the demonstration was not licensed. According to media reports, more than 60 persons were detained for burning

the national flag and destroying property. Human rights activists claimed more than 200 demonstrators were detained. The demonstration began after Friday prayers in reaction to the killing of Hamas leader Sheikh Ahmed Yassin. The government claimed it filed formal charges against some of the detainees while releasing those under 18. MP Tayseer al-Fitiani alleged that riot police beat him with clubs upon his arrival at the al-Wihdat police station after demonstrators had dispersed.

*Freedom of Association.*—The constitution provides for the right of association; however, the government limited freedom of association by law. The law prohibits the use of associations for the benefit of any partisan organization. The government required and routinely granted approval for nonpolitical conferences, workshops, and seminars.

The government prohibits membership in unlicensed political parties but routinely licensed political parties and other associations. There were 31 licensed political parties. The government may deny licenses to parties that it decides do not meet a list of political and other criteria contained in the Political Parties Law. The High Court of Justice may dissolve a party if it violates the constitution or the law.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, provided that religious practices are consistent with “public order and morality;” however, the government continued to impose some restrictions on freedom of religion. The state religion is Islam. The government does not officially recognize all religious groups. Groups obtain recognition with the approval of the prime minister. In order to be recognized, the group must have citizens among its constituency, and the Ministry of the Interior must also conduct a background investigation. Recognition allows a religious group to purchase land with a tax exemption.

Members of unrecognized religious groups and converts from Islam faced legal discrimination and bureaucratic difficulties in personal status cases. The government prohibits non-Muslims from proselytizing Muslims.

Persons enjoy freedom of belief, and there were no reports that the practice of any faith was prohibited. Some religious groups, while allowed to meet and practice their faith, complained of societal and official discrimination. In addition not all Christian denominations have been accorded legal status.

The government did not accord the Druze or Baha’i Faiths the status of officially recognized religions but did not prohibit the practice of these faiths. Druze faced official discrimination but did not complain of social discrimination. Baha’is faced both official and social discrimination. The government did not record the bearer’s religion on national identity cards issued to Druze or Baha’is.

The government did not recognize Jehovah’s Witnesses, the Church of Christ, or the Church of Jesus Christ of Latter-day Saints, but each of these denominations conducted religious services and activities without interference.

The Jordan Evangelical Theological Seminary (JETS), a Christian training school for pastors and missionaries, had not been accredited as an educational institution by year’s end, although the government granted it “registration,” allowing it to operate. Due to the lack of accreditation, JETS students and faculty coming from abroad were unable to obtain student/work visas. Students traveled on tourist visas and applied for residency permits once they arrived in the country. During the year the government denied residency permits to 12 noncitizen students for reasons including insufficient funds.

Shari’a prohibits non-Muslims from proselytizing Muslims. Conversion to the Muslim faith by Christians was allowed; however, a Muslim may not convert to another religion. Muslims who convert to other faiths complained of social and government discrimination. Under Shari’a converts are regarded as apostates and legally may be denied their property and other rights. In November 2004 the Amman Shari’a court found a convert from Islam to Christianity guilty of apostasy, stripped him of many of his civil rights, and annulled his marriage. A Shari’a appellate court upheld the conviction in January. Converts to and from Islam are considered Muslims under Shari’a on matters of personal status.

The constitution provides that religious community trusts and matters of personal status fall within the exclusive jurisdiction of the Shari’a courts for Muslims, and separate non-Muslim tribunals for each religious community recognized by the government. There is no civil marriage. The head of the department that manages Shari’a court affairs (a cabinet-level position) appoints Shari’a judges, while each recognized non-Muslim religious community selects the structure and members for its own tribunal. All judicial nominations are approved by the prime minister and commissioned officially by royal decree. The Protestant denominations registered as “societies” come under the jurisdiction of one of the recognized Protestant church tribunals. There are no tribunals assigned for atheists or adherents of unrecognized

religions. These persons must request one of the recognized courts to hear their personal status cases.

Converts from Islam to Christianity faced possible loss of civil rights, loss of child custody, and economic hardship. However, courts have shown a willingness to decide mixed religion child custody cases in the best interests of the child.

In 2002 the Shari'a and civil court systems adjudicated a child custody case and transferred legal custody of two minors who were raised as Christians from their Christian mother to her Muslim brother. However, the judgment was never executed and the children remained in the mother's physical custody pending the result of a countersuit filed against the Muslim brother, accusing him of lack of interest in the children and misuse of the children's trust funds. In April the court found that the Muslim brother was negligent and was misusing the children's trust funds. The judge awarded legal custody of the children to their Christian mother. Her brother filed an appeal in May, but the appellate court rejected his petition.

Men may divorce their spouses more easily than women; however, since 2001 Shari'a courts have granted over 500 divorces sought by women (see section 5).

The legal system regards minor children of a male Muslim who converts to another religion to be Muslims. Adult children of a male Christian who has converted to Islam become ineligible to inherit from their father if they do not themselves convert to Islam. Muslim converts to Christianity and minor children of male converts to Christianity are not recognized legally as Christians and continue to be treated as Muslims in matters of family and property law.

The government noted individuals' religions (except for Druze, Baha'is, and other unrecognized religions) on the national identity card and "family book" (a national registration record issued to the head of every family that serves as proof of citizenship) of all citizens. Atheists must associate themselves with a recognized religion for official identification purposes.

Government policy requires that foreign missionary groups refrain from public proselytizing for their own safety from members of society that oppose such practices. The government has taken action against some Christian proselytizers in response to the complaints of recognized Christian groups who charge that the activities of these missionaries "disrupt the cohesiveness and peace between religious groups in society."

In August two foreign missionaries were expelled from the country after a MP complained to the minister of the interior that they were proselytizing among children without the permission of the parents.

*Societal Abuses and Discrimination.*—Relations between Muslims and Christians generally were amicable. However, Muslims who convert to other religions often faced social ostracism, threats, and abuse from their families and Muslim religious leaders. Families usually strongly discouraged interfaith romantic relationships, which ultimately may lead to conversion. Such relationships may lead to ostracism and, in some cases, violence against the couple or feuds between members of the couple's families. Baha'is faced some societal discrimination.

Private broadcast media occasionally showed anti-Semitic programs. During the year the private satellite television Memnou'a broadcast a program based on the *Protocols of the Elders of Zion*. Memnou'a is based in what the government calls a "free media zone." The government attempted to halt the broadcast. Editorial cartoons, articles, and opinion pieces critical of Israel sometimes employed anti-Semitic images and stereotypes and were published in the newspapers *Al-Rai* and *Al-Dustur*. There was no government response to these pieces. Aside from expatriates and diplomats, there was no resident Jewish community in the country.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, there were some restrictions. The law requires that all women obtain written permission from a male guardian to apply for a passport; however, women do not need a male relative's permission to renew their passports. In the past there were several cases when mothers reportedly were prevented from departing with their children because authorities enforced requests from fathers to prevent their children from leaving the country (see section 5). The GID sometimes withheld passports from citizens on security grounds.

Local governors may use the Preventing Crimes Law to place citizens under house arrest for up to a year without formally charging them (see section 1.d.). House arrest may involve requiring persons to report daily to a local police station while under curfew. Persons who violate the terms of house arrest may be imprisoned for up to 14 days.

Persons with full citizenship receive passports that are valid for five years. Most persons of Palestinian origin living in the country were citizens and received passports; however, the government estimated that there were 150 thousand Palestinian refugees, mostly of Gazan origin, who do not qualify for citizenship. They received three-year passports valid for travel but which do not connote citizenship. West Bank residents without other travel documentation are eligible to receive five-year passports which do not connote citizenship.

Human rights activists continued to charge that the government did not apply consistently citizenship laws, especially in cases in which passports were taken from citizens of Palestinian origin. The government claimed this policy was in line with its efforts to implement the government's disengagement from its former claims to the West Bank. However, activists complained that the process is not transparent and the appeal process virtually nonexistent. Claimants or families filed appeals with the Ministry of Interior (MOI), which were not resolved to their satisfaction. The government asserted that all cases it closed involved persons without valid claims to citizenship or travel documents.

Human rights activists reported that approximately 1,200 citizens of Palestinian origin remained outside the country, due to the government's refusal to renew their passports at embassies overseas. The government asserted that only nonresident Palestinians who sought to renew travel documents, which required proof of residence in the country, have been refused.

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

*Protection of Refugees.*—The government is not a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. It generally cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in assisting refugees and asylum seekers. The government respected the UNHCR's eligibility determinations regarding asylum seekers, including those who entered the country clandestinely. The UNHCR continued to train law enforcement officials and judges in international refugee law, including training for instructors from the NCHR who conducted a course for entry-level government officials during the year. However, the UNHCR reported that approximately 200 Iranian refugees formerly resident in a UNHCR camp in Ramadi, Iraq, were refused entry. It also reported in several instances that it intervened to prevent the deportation of persons issued UNHCR asylum seeker cards.

As of October 1, approximately 1.8 million Palestinian refugees were registered with the UNRWA. The UNRWA and the government continued to provide assistance to these Palestinian refugees during the year. Approximately 700 thousand persons displaced from former Jordanian territories during the 1967 war have been granted nationality. An additional 120 thousand persons displaced during the 1967 war hold temporary residency permits. A further 200 thousand Palestinian refugees were also estimated to be living in the country without any direct assistance.

Since 1991 thousands of Iraqis have applied for refugee status and received legal and material assistance from the UNHCR. It was estimated that between 400 and 600 thousand Iraqis were living in the country. The government generally recognized UNHCR's request that states continue to grant temporary protection for all Iraqi asylum seekers, including new arrivals, rejected cases, and recognized refugees whose cases had been suspended by resettlement countries. However, UNHCR reported that a significant number of Iraqis were refused entry into the country. It also reported that it intervened to prevent the deportation of persons issued UNHCR asylum seeker cards in several instances. The government also continued its policy of denying children of Iraqi asylum seekers admittance to public and private schools unless their families were able to establish legal residency in the country.

According to UNHCR figures, during the year, 966 persons from Iraq, Russia, Somalia, Sudan, Syria, and Egypt recognized as refugees awaited resettlement. An additional 90 Chechens were allowed to remain indefinitely pending repatriation. By year's end approximately 17 thousand persons, primarily Iraqis, were seeking asylum. UNHCR received new applications for refugee status from 5,758 persons, including 5,568 Iraqis, 50 Sudanese, 31 Syrians, 11 Egyptians, 10 Russians and 45 stateless persons during the year.

The government also continued to provide temporary protection to recognized refugees formerly resident in Iraq who fled Iraq in 2003, including 151 Palestinians and 464 Iranian Kurds formerly resident in a UNHCR camp in Ramadi. In May the government closed the reception camp UNHCR established in the "No Man's Land" between the Jordanian and Iraqi borders, relocating the residents to the refugee camp UNHCR established in Ruweished in 2003. The government refused entry to

approximately 200 Iranian refugees formerly resident in the UNHCR camp in Ramadi who attempted to flee Iraq in January.

According to the International Organization for Migration (IOM) statistics, between January 1 and November 30, the government granted temporary protection to 638 third country nationals fleeing Iraq en route to Sudan, Bangladesh, Nigeria, and Turkey. The government also facilitated the transit of 907 Iraqis voluntarily returning to Iraq from third-countries, primarily from Europe. IOM verified that all repatriations to Iraq and to third-countries were voluntary.

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

Citizens do not have the right to change their government. Citizens may participate in the political system through their elected representatives in parliament; however, the king may at his discretion appoint and dismiss the prime minister, cabinet, and upper house of parliament; dissolve parliament; and establish public policy.

*Elections and Political Participation.*—After being appointed by the king, a prime minister is required to submit his cabinet to a parliamentary vote of confidence, if there is a seated parliament. Executive power is vested in the king (or, in his absence, in the regent), who exercised his power through his ministers in accordance with the provisions of the constitution. The June 2003 multiparty parliamentary elections were generally considered to be free and fair; however, the election law significantly underrepresented urban areas. Some losing candidates claimed that voter fraud was a problem. The Islamic Action Front boycotted the elections in all districts outside greater Amman to protest the provisional law on appointing municipal officials.

The law allows voters to choose one candidate in multiple-seat districts. In the largely tribal society, citizens tended to cast their vote for family members. Observers believed that the law continued to give greater proportional representation to electorates in the rural and southern part of the country, as well as in regions with populations known for their traditional, pro-Hashemite views, resulting in significant underrepresentation of urban areas. In practice nontribal candidates' chances for election in tribal areas were limited. Many observers considered electoral districting unfair because of a lack of balance between the population and the number of seats per district and claimed that it was intended to reduce the representation of areas heavily populated by Jordanians of Palestinian origin.

The 2001 election law increased the number of electoral districts by redrawing district boundaries and redistributing seats among districts, required judiciary verification of polling results, raised the number of lower house seats from 80 to 104, and lowered the voting age to 18 years. A 2003 amendment included a 6-seat quota for women in the House of Deputies, raising the number of lower-house seats to 110. Citizens may freely nominate themselves and register as candidates as long as they do not have a criminal history.

The king proposes and dismisses extraordinary sessions of parliament and may postpone regular sessions for up to 60 days. If the government amends or enacts a law when parliament is not in session, it must submit the law to parliament for consideration during the next session; however, such "provisional" laws do not expire and, while technically subject to action by parliament when it returns to session, may in practice remain in force without legislative approval.

According to a 2002 provisional law, the king approves the appointments of all mayors, who are nominated by the Ministry of Municipalities. The law also reduced the number of municipalities from 299 to 99.

Women have the right to vote, and were encouraged to vote and be active in the political process. There were four female ministers for part of the year, although at year's end, following two cabinet shake-ups, there were only two. There were six female senators at year's end. There were seven before March; however, one was chosen to be a minister in the cabinet reshuffle that month. In the lower house, there were six female deputies, which is the minimum required under quota provisions of the electoral law.

Of the 110 seats in the lower house, the quota provisions reserve 9 for Christians, 9 for Bedouins, and 3 for either the Circassian or Chechen ethnic minorities.

Citizens of Palestinian origin, estimated to be more than half of the total population, comprised 6 of 28 ministers. In the parliament, 7 of 55 senators and 17 of 110 lower house deputies were of Palestinian origin. There were no Palestinians in any of the country's 12 governorships. The electoral system gives greater representation to areas that have a majority of inhabitants of non-Palestinian origin.

*Government Corruption and Transparency.*—Corruption is a crime. The GID has an anticorruption department that is responsible for combating bribery, extortion,

and other similar crimes. Attempts to establish similar, transparent entities outside the security service were not successful. There was a public perception of corruption in the executive and legislative branches. Influence peddling and a lack of transparency have been alleged in government procurement and dispute settlement. The use of family, business, and other personal connections to advance personal business interests, was widespread.

In January Haider Mahmoud, a respected poet, wrote a thinly-veiled poem to the king warning him of the corruption surrounding him. Mahmoud was vilified in the press as a traitor, and then-prime minister Faisel al-Fayez called for the mayor of Amman to fire Mahmoud from his position as head of the Al Hussein cultural center; Mahmoud resigned. Mahmoud's son also resigned from his job with the Ministry of Foreign Affairs.

MP Ghazi Zaben opened an investigation in May into *awqaf* funding, and into allegations that a former minister of *awqaf* and Islamic affairs, Ahmad Hilayel, was illegally profiting from travel packages to Mecca for the annual Muslim pilgrimage. Zaben stopped short of calling the ministry corrupt. His investigation lost steam after Hilayel was replaced during the April cabinet reshuffle.

On June 26, the king instructed the prime minister to form an independent anticorruption committee, charged with drafting a law designed to provide for transparency in the public sector. On July 12, the cabinet endorsed the commission's draft law, and it was under review by the lower house's legal subcommittee at year's end.

The law provides for public access to government information once it becomes a matter of legal record, and the government enforced this law in practice.

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

A number of domestic and international human rights groups generally operated with restricted permission from the government, investigating and publishing their findings on human rights cases alleging torture and other abuses committed by the security forces. Within these limits government officials were cooperative and responsive to their views. The Press and Publications Law removed restrictions on the publication of information about the military and security forces, which had prevented the publication by domestic groups of reports alleging torture and other abuses committed by the security forces; however, similar restrictions still exist in the penal code and other laws (see section 2.a.).

The local chapter of the Arab Organization for Human Rights and the Jordanian Human Rights Organization continued to operate with the permission of the government.

In July 2004 the Jordanian Society for Citizens' Rights applied for registration with the MOI under the new name of the Jordan Organization for Citizen Rights, after having been shut by the MOI in 2002. The MOI officially denied the application in October 2004. The founder of both organizations claimed that the assistant governor of Amman told him in April that the government would find pretexts for further legal or administrative action against him if he persisted in his agitation for Palestinian rights. The founder complained of this alleged harassment in a letter to King Abdullah later that month. At year's end he has reported no retaliation against him.

The NCHR began operations in 2003. Its activities included training government and international organization personnel on human rights standards and conditions in the country and collection and analysis of citizens' complaints. The government cooperated with and funded the center; some human rights activists complained that it was too influenced by the government. On May 31, the NCHR issued its first annual report on the state of human rights in the country, covering an 18-month period from June 2003 through December 2004. In the 87-page report, the NCHR ranked Jordan "good" at the planning and policy level; "acceptable" in economic, social, and cultural rights; and "poor" in civil and political rights. A ministerial committee was formed after the report's release to study the report and formulate a response. At year's end that committee has not produced a response.

The PSD, which opened its first human rights complaints offices in 1996, had opened offices in each of its eight regional directorates by 2003. Persons charging police misconduct may submit complaints to the relevant office, and the government reported that cases backed by sufficient evidence can result in police officers being tried under the public security law. Plaintiffs may file compensation claims for damages, and convicted officers reportedly also were subject to disciplinary action. During the year citizens filed 425 complaints against PSD personnel. Of those, 221 were validated; 43 resulted in trials and disciplinary measures; 25 were referred to the special police courts; and 153 were under consideration at year's end. The remain-

ing 204 complaints were ruled invalid. Of those 7 complainants dropped their cases, 145 cases lacked evidence, and 52 were dismissed by the courts.

The government generally cooperated with international NGOs, but human rights observers claimed that some security detainees were held incommunicado. The ICRC was permitted full access to all detainees and prisoners, including those held by the GID and the military intelligence directorate (see section 1.c.).

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

The law does not distinguish between citizens on the basis of race, disability, language, or social status; however, women were treated differently under the law, and some minorities faced discrimination in employment, housing, and other areas. Some private political groups such as the Anti-Normalization Committee, which is opposed to ties with Israel, acted through various professional organizations to pressure individuals who have had dealings with Israel, at the same time that the government took measures to restrict the committee's activities (see sections 2.a and 2.b.).

*Women.*—Violence against women continued, although the full extent of the problem was difficult to determine. In rural areas violence against women was reported frequently than in major cities; however, women's rights activists speculated that many incidents in cities went unreported. Although in recent years the government has taken steps to increase the resources available to help abused women, cultural norms continued to discourage victims from seeking medical or legal assistance.

Abused women have the right to file a complaint in court against their spouses for physical abuse; however, in practice familial and societal pressures discouraged them from seeking legal remedies. Marital rape is not illegal. NGOs such as the Jordanian Women's Union, which had a telephone hot line for victims of domestic violence, provided assistance in such matters. The Family Protection Unit of the Public Security Directorate also offered a comprehensive support program for victims of domestic violence and sexual assault. Wife-battering technically is grounds for divorce, but a husband may seek to demonstrate that he has authority from the Koran to correct a perceived irreligious or disobedient wife by striking her.

The phenomenon of so-called "honor crimes" derives from customary notions of family honor among some traditional communities, both Muslim and Christian. Authorities prosecuted all reported such crimes. During the year, 15 honor crimes, all killings, were reported. According to women's rights activists, there was some evidence of a societal trend toward condemnation of honor crimes. The police regularly placed potential victims of honor crimes in protective custody. Activists estimated that more than 25 women were in protective custody. At least one NGO was working in conjunction with the government to establish a shelter where the women could live in relative anonymity as an alternate to protective custody.

In ordinary cases the maximum penalty for first-degree murder is death, and the maximum penalty for second-degree murder is 15 years in prison. Article 340 of the penal code provides for lenient treatment in cases where the accused personally witnessed the victim of an honor crime engaging in sexual relations or in bed with a nonspouse. Article 98 of the penal code specifically states that "An extenuating justification can be invoked by anyone who commits a crime in a fit of rage as a result of an unrightfully and dangerous act carried out by [the] victim," and as a result, may significantly reduce murder charges. Although the defendants are almost universally found guilty, a successful Article 98 defense results in the defendants receiving token sentences.

For example, on May 16, a 19-year-old Ramtha man identified in the media as "Mohammad M.," surrendered to police after stabbing to death his 24-year-old sister, who he believed had committed adultery. In its August 27 verdict, the Ramtha tribunal of the criminal court system accepted the defendant's Article 98 defense and reduced the charges from premeditated murder to manslaughter. He was sentenced to a six-month prison term.

In June the courts accepted the Article 98 defense of a 20-year-old man identified as "Musa J.," who had been charged in October 2004 with killing his 21-year-old sister, a mother of two. The charge against him was reduced to manslaughter; he was sentenced to the six months he had already served and was immediately released. Musa J. leveled several contradictory allegations of immorality against his sister. The prosecutor general of the criminal court announced that he would appeal the court's June decision.

On May 12, a South Shouneh man was given a seven-and-a-half-year prison sentence for murdering his 17-year-old married daughter in November 2004. She had gone missing for a week in early August 2004 until the police found her and put her in protective custody. She was released when relatives signed a pledge that she would not be harmed. Shortly after her release, she and her husband went to her



father's home, where they told him that she was in love with another man. After asking her husband to leave the house, the father shot his daughter in the head three times. The tribunal of the criminal court rejected the defendant's Article 98 defense.

In a widely reported case, the brothers Bilal and Raed al-Ajouri received in May 7½ and 10 year sentences for murdering their pregnant sister in April 2004. The woman had become pregnant out of wedlock with an Egyptian man. She confronted her family with the pregnancy and received her father's blessing to marry in Egypt. Upon her return to the country to give birth, her brothers killed her and her unborn child.

There were no official reports of female genital mutilation (FGM) during the year, although international observers believed this practice was still occurring in Wadi Araba, in the south of the country. Due to the isolation of the area where FGM is likely to occur, official data was very hard to obtain. The last reported case of FGM was in 2003.

According to the law, sexual harassment is strictly prohibited and subject to criminal penalties including fines and imprisonment. Sexual harassment, assault, and unwelcome advances of a sexual nature against women did not appear to be widespread problems. Prostitution is illegal. In an effort to combat prostitution, the government made it a crime for licensed masseurs or masseuses to sell services to opposite sex clients.

Women experienced legal discrimination in pension and social security benefits, inheritance, divorce, ability to travel, child custody, citizenship, and the value of their Shari'a court testimony in certain limited circumstances (see section 1.e.). The government provided men with more generous social security benefits than women. The government continued pension payments of deceased male civil servants but discontinued payments of deceased female civil servants to their heirs. Laws and regulations governing health insurance for civil servants do not permit women to extend their health insurance coverage to dependents or spouses. However, divorced and widowed women may extend coverage to their children.

Under Shari'a as applied in the country, female heirs receive half the amount that male heirs receive, and non-Muslim widows of Muslim spouses have no inheritance rights. A sole female heir receives half of her parents' estate; the balance goes to designated male relatives. A sole male heir inherits both of his parents' property. Male Muslim heirs have the duty to provide for all family members who need assistance. Men were able to divorce their spouses more easily than women, although a provisional law introduced in 2002, which was in effect at year's end, permitted women to initiate divorce on any grounds, provided they give up the financial settlement normally granted in divorce cases. The existing permanent divorce law allows women to seek divorces and retain their financial rights only under specific circumstances, such as spousal abuse. In these cases there is a burden of proof that the women must overcome (see section 2.c.). Special courts for each denomination adjudicate marriage and divorce matters for Christians (see section 2.c.). There were 25 female judges during the year, an increase of 6 from 2004.

In 2003 the passport law was amended to state that women and their minor children may obtain passports without the written permission of their husbands (see section 2.d.). Married women do not have the legal right to transmit citizenship to their children; however, since 2002 the government has permitted Jordanian women married to non-Jordanian men to pass citizenship to their children upon the permission of the council of ministers. In practice this permission was usually granted, except in cases where the father was Palestinian. Furthermore women may not petition for citizenship for their noncitizen husbands. The husbands themselves must apply for citizenship after fulfilling a requirement of 15 years of continuous residency. Once the husbands have obtained citizenship, they may apply to transmit the citizenship to their children. However, in practice such an application may take years, and in many cases citizenship still may be denied to the husband and children. Such children become stateless and, if they do not hold legal residency, lose the right to attend public school or seek other government services.

Civil law grants women equal pay for equal work; however, in practice this law sometimes was ignored.

Traditional social pressures discouraged many women from pursuing professional careers, especially after marriage. Nonetheless, women had employment opportunities in many professions, including government, engineering, medicine, education, the military, and law. Women's groups stressed that the problem of discrimination was not only one of law but also of women's lack of awareness of their rights or unwillingness to assert them. A professional women's association, the royal family, and the government promoted improvements for women's civil and economic life. Official figures at year's end show that 48 percent of students enrolled in higher edu-

cation institutions were female, and in some disciplines, females comprised 80 percent of the student body.

At year's end, while unemployment for the population as a whole reached 13.4 percent, for females the number was 19.7 percent.

*Children.*—The government was committed to children's rights and welfare in the areas of education and health; however, government efforts in these areas were constrained by limited financial resources. Education is compulsory from ages 6 through 16; however, no legislation exists to enforce the law or punish guardians for violating it, and absence from school goes without penalty. Currently a student may be absent from school for up to two years and the Ministry of Education will still allow the student to return to school. Public education was free from age 6 through completion of high school (age 18). The overall school attendance and total secondary school attendance rates remained at 92 percent. Several domestic and foreign religious groups operated private schools throughout the country. Since 1999 the government denied Iraqi children admittance to public schools unless they were legal residents of the country or recognized as refugees by the UNHCR. In September the MOI decided to bar enrollment of Iraqi children at private schools in the country unless their parents have residency permits (see section 2.d.).

The government attempted to address the issues of educational development and quality and the relevance of education to job-market demand, with few concrete results. The government did not charge tuition for public education and it granted food and transportation supplements to families with many children or to very poor families.

Students must obtain a good behavior certificate from the GID to be admitted under the university quota system. Activists reported that the GID sometimes withheld these certificates from deserving students due to a family member's allegedly problematic record.

The government provided free inoculation programs typically administered through the school system for children. In addition children had access to government-subsidized public clinics, which offer reduced fees for most services.

The National Team for Family Protection coordinated all issues concerning family safety. The government-funded "Dar al Amman," the country's first child protection center, provided temporary shelter, medical care, and rehabilitation for children age 6 to 12 who have suffered abuse. In September, the National Council for Family Affairs launched an eight-tier national strategy for families.

During the year the authorities received complaints of 97 cases of physical abuse and 640 cases of sexual abuse of children. Social and health workers believed that there was a significant incidence of child abuse in families, and it is likely that the incidence of child sexual abuse was higher than reported. The law specifies punishment for abuses against children. Rape or sodomy of a child under 15 years of age carries the death penalty.

The Family Protection Unit of the PSD worked with victims and perpetrators of domestic and sexual violence and has launched an awareness campaign on domestic violence. The unit believes that increased awareness during the year led to greater reporting of these cases, and therefore higher numbers.

The current minimum age for marriage is 18 years. However, with the consent of a judge and a guardian, children as young as 15 may be married. In most cases the guardian made the decision that the child should be married and it was not the child's choice. One partner, almost exclusively the male, is most times significantly older than the 15-year-old. Observers at Freedom House reported that in rural, tribal areas, and in some parts of the major cities, girls as young as 14 were entered into marriage contracts, either with the acquiescence of the responsible authorities or by using falsified documents. A 2000 study showed that in 26 percent of domestic violence cases, the victims were wives younger than 18. During the year 379 cases of physical and sexual assault on girls under the age of 18 were reported; the marital status of these women was not reported.

The government attempted to safeguard some other children's rights, especially regarding child labor (see section 6.d.). Although the law prohibits most children under the age of 16 from working, child vendors worked on the streets of Amman. Economic conditions and social disruption have caused the number of these children to increase over the last 10 years. Child vendors sold newspapers, tissues, small food items, or gum, and other children who picked through trash dumpsters to find recyclable cans to sell, sometimes were the sole source of income for their families. Generally these children were not subjected to the worst forms of child labor, including prostitution. However, experts agree that children working on the street were more vulnerable to becoming victims of these sorts of crimes.

*Trafficking in Persons.*—The law prohibits trafficking in children; however, it does not specifically prohibit trafficking in other persons. Other criminal statutes prohibit slavery and indentured servitude. In October Western media reported the August 2004 killing of 12 Nepali migrant workers in Iraq. According to the reports, an employment agency in Nepal colluded with Morning Star, a recruiting agency in Amman, to bring the men through Jordan to Iraq to work. Several of the men were told that they would be working for a hotel in Amman, but instead they were taken to Iraq, where they were captured and killed by insurgents. The government subsequently closed Morning Star. In 2004 to reduce the potential for abuse of foreign domestic workers (FDWs), the government adopted new and stricter procedures that regulate the importation of such labor (see section 6.e.). While these changes improved the legal framework to protect FDWs, lack of awareness among employers and employees remained a problem. The government has undertaken a cooperative program with the UN Development Fund for Women (UNIFEM) to raise the awareness of FDWs on the new protections afforded them. The Ministry of Labor (MOL) regularly visits the employment agencies that hire and import FDWs to ensure compliance with the law.

*Persons with Disabilities.*—There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions, although many private and public office buildings still have limited or no accessibility for persons with disabilities. High unemployment restricts job opportunities for persons with disabilities, who officially numbered 220 thousand, though UN averages placed the number closer to 500 thousand. Thirteen percent of citizens with disabilities received monetary assistance from the government. Since 1993, the law required future public buildings to accommodate the needs of persons with disabilities and to retrofit existing public buildings; however, implementation has been slow. A Special Building Code Department was established in 1997, to oversee the retrofitting of existing buildings.

The law requires that 2 percent of available public sector jobs be reserved for persons with physical disabilities. Private organizations and members of the royal family actively promoted programs to protect and advance the interests of persons with disabilities. Experts worried that the country still approached disabilities issues from a charitable approach, as opposed to from a rights approach. However, Landmine Survivors Network hosted a “training of trainers” program over two weeks in September, designed to build capacity and to advocate for the rights of persons with disabilities in the country and the region.

*National/Racial/Ethnic Minorities.*—There are three groups of Palestinians residing in the country. Those that migrated to the country and the Jordan-controlled West Bank after the 1948 Arab-Israeli war were given full citizenship. Those still residing in the West Bank after 1967 were no longer eligible to claim citizenship, but were allowed to obtain temporary passports without national numbers, provided they did not also carry a Palestinian Authority travel document. In 1995 then King Hussein announced that West Bank residents without other travel documentation would be eligible to receive full-validity passports, although still without national numbers. Refugees who fled Gaza after 1967 were not entitled to citizenship and were issued temporary passports without national numbers.

Human rights activists maintained that despite the codified passport issuance procedures, many citizens of Palestinian origin have had their Jordanian national numbers revoked at the whim of the interior ministry employees. Others claimed that their temporary passports have been confiscated after spending time in the West Bank. Invisible ceilings for appointments to positions in the government and the military persist, and admittance to public universities and the granting of university scholarships is regulated by a quota system. Citizens of Palestinian origin complain of underrepresentation in parliament, and even socially well-situated Palestinian-Jordanians claimed that their national origin results in dismissive and discriminatory attitudes from East Bank Jordanians (see section 2.d.).

During the year there were reports of societal discrimination against Iraqis living in the country. According to a December 7 UN Integrated Regional Information Networks report, the number of reports of discrimination against Iraqis living in the country rose following the November 9 Amman hotel suicide bomb attacks (see section 1.d.). The Iraqi Association for Nationals Living in Jordan received hundreds of complaints from Iraqis living in Amman of discrimination in the streets, in shops, and in public places. Beatings of Iraqis were reported in the days immediately following the bombings.

*Indigenous People.*—The country's indigenous people, nomadic Bedouin and East Bank town-dwellers, traditionally have been the backbone of popular support for the Hashemite monarchy and dominated in senior military, security, and civil service positions, as well as in the parliament. Nevertheless, many Bedouin in rural areas were disadvantaged economically.

*Other Societal Abuses and Discrimination.*—Societal discrimination against homosexuals existed.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers in the private sector, in some state-owned companies, and in certain professions in the public sector have the right to form and join unions without excessive requirements and did so in practice. Unions must be registered to be legal. The labor law limits membership to citizens, effectively excluding the country's more than 218 thousand registered foreign workers. However, some unions represented the interests of foreign workers informally. According to official figures, more than 30 percent of the workforce was organized into 17 unions. Although the Solidarity Center, a global nonprofit organization, put the actual number closer to 10 to 15 percent, the number approaches 30 percent when the professional associations are included. Unions are required by the government to be members of the General Federation of Jordanian Trade Unions (GFJTU), the sole trade union federation. The government subsidizes and audits the GFJTU's salaries and activities. Union officials are elected by secret ballot to five-year terms, when elections actually take place. More often than not, the number of candidates equals the number of seats. Members have three days to file a nomination application, which is reviewed by the union. Elections are only held if there are more candidates than seats. In recent election cycles, when the number of candidates exceeded the number of seats, some candidates were persuaded to withdraw. The government monitors the elections in the event of a complaint to ensure compliance with the law.

The constitution prohibits antiunion discrimination, but the International Confederation of Free Trade Unions (ICFTU) claimed that the government did not protect adequately employees from antiunion discrimination. Workers may lodge complaints of anti-union discrimination with the MOL, which is authorized to order the reinstatement of employees discharged for union activities. There were no complaints of antiunion discrimination lodged with the MOL during the year.

*b. The Right to Organize and Bargain Collectively.*—Unions have and exercise the right to bargain collectively. Labor laws mandate that workers must obtain government permission to strike. Unions generally did not seek approval for a strike, but workers used the threat of a strike as a negotiating tactic. Strikes are prohibited if a labor dispute is under mediation or arbitration. If a settlement is not reached through mediation, the MOL may refer the dispute to an industrial tribunal with agreement of both parties. In August 7 trade unions threatened to stage a general strike if the Social Security Corporation made changes to early retirement regulations, which currently provide incentives for workers to retire as early as age 45. The unions dropped the threat to strike after further talks with the government. Also in August the General Trade Union of Workers in Mining and Metal Industries issued a list of demands of 1,350 workers from the Jordan Phosphate Mines Company. Chief among their demands was that 100 housing units built by the company be distributed to them prior to the privatization of the company. At year end the company had not privatized.

The tribunal is an independent arbitration panel of judges appointed by the MOL. The decisions of the panel are legally binding. If only one party agrees, the MOL refers the dispute to the council of ministers and then to parliament. Labor law prohibits employers from dismissing a worker during a labor dispute. There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, except in a state of emergency such as war or natural disaster. It generally was not practiced. Some foreign domestic servants, almost exclusively female, were subject to coercion and abuse and, in some cases, worked under conditions that amounted to forced labor (see section 6.e.). The law does not prohibit specifically forced or compulsory labor by children; however, such practices were not known to occur.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Labor law forbids children under the age of 16 from being employed, except as apprentices; however, there were reports of child labor. Children under the age of 18 may not work for more than 6 hours continuously between the hours of 8 p.m. and 6 a.m., or during weekends, religious celebrations, or national holidays. Children under 18 may not work in hazardous occupations. Provisions in the labor laws do not extend to

children in the informal sector, which consists of agriculture, domestic labor, and small family businesses.

The law provides that employers who hire a child under the age of 16 must pay a fine ranging from \$140 to \$710 (100 to 500 dinars). The fine is doubled if the offense is repeated. The government, however, provided little training on child labor to the 72 MOL inspectors responsible for enforcing the relevant laws. When investigating child labor, inspectors generally acted to ameliorate the situation of the involved families, including directing some adult family members toward job training programs. In the past some government officials claimed that if children were barred from working, they would lose important income on which their families depended, and might turn to more serious activities, such as drug trafficking and prostitution, for income.

The MOL's Child Labor Unit received, investigated, and addressed child labor complaints (although it has no formal mechanism for doing so) and coordinated government action regarding child labor. Anecdotal evidence suggested that child labor, especially of street vendors, was more prevalent during the year than it was 10 years ago. Despite the difficulty in accurately measuring the extent of child labor, child labor is particularly noticed in big cities, where children work in mechanical workshops or as peddlers at traffic lights. A 2001 official study estimated that 38 thousand children were working.

On December 10, the International Labor Organization, in cooperation with the Jordan Chamber of Industry, held a training session titled "international and national legislation mechanisms to fight child labor." The session assembled several chambers of industry and commerce throughout the country, many government-sponsored programs, and coordinators of the National Program to Combat Child Labor from several ministries.

The law does not specifically prohibit forced or bonded labor by children; however, such practices were not known to occur (see section 6.c.).

*e. Acceptable Conditions of Work.*—In July the government increased the national minimum wage by 5.88 percent, from \$119 to \$127 (85 to 90 dinars) per month. Previously, the last minimum wage increase occurred in January 2003, when the government increased it from \$113 to \$120 (80 to 85 dinars) per month. The minimum wage applies to all workers except domestic servants, those working in small family businesses, and those in the agricultural sector. Inspectors from the MOL enforced the minimum wage, but due to limited resources were unable to ensure 100 percent compliance. Although the increase exceeded the 2002 1.8 percent cost of living increase, the national minimum wage did not provide a decent standard of living for a worker and family. The government estimated that the poverty level was at a monthly wage of approximately \$47 (33 dinars) per month per capita.

The law requires overtime pay for hours worked in excess of the standard workweek, which generally is 48 hours. Workers may not work more than 10 hours in any continuous period or more than 60 hours of overtime per month. Employees are entitled to one day off per week. Labor law does not apply to small family businesses, domestic servants, and nonprofessional and nontechnical workers in the agriculture sector. However, it does apply to citizens and noncitizen workers in other sectors. There is a separate civil service law. The law specifies a number of health and safety requirements for workers, which the MOL is authorized to enforce. The law requires employers to report industrial accidents to the ministry within 48 hours. Although employers are not required to report occupational diseases to the ministry, the law stipulates that if the medical authority determines that a worker suffers an occupational disease as a result of his work, the employer is liable for compensation. The ministry mediates disputed amounts of compensation in cases of occupational disease. Workers do not have a statutory right to remove themselves from hazardous conditions without risking the loss of their jobs.

According to the MOL, there were 218,756 registered noncitizen workers in the country. The majority of whom were engaged in low-wage, low-skill activities in the agriculture, construction, and industrial sectors. According to the government and independent surveys, approximately 26 thousand of these workers were employed in the Qualifying Industrial Zones (QIZs). Foreign workers in the QIZs were recruited through a vetted process involving registered recruitment agencies. The embassies for a number of the major source countries of this labor sent officers to the QIZ factories to track labor conditions.

Domestic servants have no legal redress for labor grievances and cannot sue in court for nonpayment of wages. Abuse of domestic servants, most of whom were foreign, was widespread, though not thoroughly documented. Employers routinely limited their domestic employees' freedom of movement, and often illegally confiscated travel documents. Victims, who feared losing their employment and being returned to their home country, generally did not report complaints to government officials.

In 2003 the MOL instituted a number of new requirements for employment agencies that provide ministry oversight of FDWs' recruitment and employment. The ministry actively closed unlicensed recruiting agencies, but the lack of awareness among FDWs of their legal protections remained an impediment that the ministry worked to address. In cooperation with UNIFEM and several source country embassies, the government also introduced a new standard work contract with greater protections that applied to all FDWs arriving since July 2003.

## KUWAIT

Kuwait is a constitutional, hereditary emirate ruled by the al-Sabah family, which governs in consultation with prominent families and the elected National Assembly. The 1962 constitution grants the emir executive and legislative authority and permits dissolution of the elected National Assembly by decree. Kuwait has a population of 2.9 million residents, approximately 970 thousand of whom are citizens. During the July 2003 parliamentary elections, the electorate consisted of approximately 143 thousand male citizens, and there were no political parties. Within these parameters and recognizing that the government and the opposition reportedly bought votes, the elections were generally considered to have been free and fair. Following the 2003 elections, the emir appointed a new prime minister whose authority the crown prince previously held. The prime minister appoints all officials in the executive branch; however, the National Assembly has at times influenced or overturned government decisions. The constitution provides for some judicial independence; however, the emir appoints all judges, and the Ministry of Justice must approve the renewal of most judicial appointments. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government improved its human rights record by granting women the right to vote; however, serious problems remained. The following human rights problems were reported:

- no right to change the government
- abuse of and alleged torture of detainees
- official impunity
- poor prison conditions in certain facilities
- restricted civil liberties—freedoms of speech, press, assembly and association
- limited freedom of religion and of movement
- corruption
- violence and discrimination against women, especially noncitizens
- abuse of noncitizen domestic workers
- unresolved legal status of *bidoon* Arabs
- restricted worker rights

On May 16, the National Assembly approved legislation to grant women the right to vote and seek elected office; however, women were not eligible to vote in the June 2 municipal council elections because the annual February voter registration period had passed.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There was one reported arbitrary or unlawful killing. On February 8, Amer Khlaif al-Enezi, the 30-year-old leader of the Peninsula Lions militant group responsible for January confrontations with security forces, died in a military hospital. Although there were allegations of torture, the government denied detainee abuse, and the hospital attributed the death to heart failure. National Assembly members called for an investigation. At year's end an investigation was not conducted. The Ministry of Interior's (MOI) forensics office produced a medical report that, Amnesty International (AI) and other critics claimed, was not impartial.

On January 31, one civilian was killed during security force battles with Islamic militants (see section 1.c.).

*b. Disappearance.*—There were no reports of politically motivated disappearances. The fate of 544 citizens and 61 other residents taken prisoner during Iraq's occupation of the country in 1990–91 remained a highly emotional issue. Of the 605

missing, the remains of 227 were identified by DNA tests, the majority exhumed from mass graves in Iraq after the fall of the Saddam Hussein regime. The Tripartite Commission on Gulf War Prisoners of War (POWs) and Missing Persons re-incorporated Iraqi participation shortly after the end of major hostilities in Iraq.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, some police and members of the security forces reportedly abused detainees, and there were allegations of torture during interrogation. Police and security forces were more likely to inflict such abuse on non-citizens, particularly non-Gulf Arabs and Asians, than on citizens. The government stated that it investigated all allegations of abuse and punished at least some of the offenders; however, in most cases the government did not make either the findings of its investigations or punishments it imposed public.

In February a citizen journalist claimed security officers beat him with sticks after he was arrested January 5 on charges of spreading news that harmed the national interest (see section 2.a.). On May 24, six Islamic militants, whose leader died in custody (see section 1.a.), suspected of engaging in deadly gun battles with security forces in January alleged they had been tortured, including beatings to their backs and on their feet, while in police custody. On September 6, a court-appointed, independent medical commission confirmed that the suspects had scars from beatings; however, it did not indicate the presumed cause or estimated date of the injuries.

There were reports of police raping detainees. In August 2004 three policemen were arrested for allegedly raping a female domestic employee of Asian origin at a police station and at another location. Officials from the victim's embassy reported the incident to the police, who launched an investigation. There were no public developments at year's end.

Defendants have the right to present evidence in court that they were mistreated during interrogation; however, the courts frequently dismissed abuse complaints because defendants were unable to provide physical evidence of abuse. Members of the security forces routinely concealed their identities during interrogation, complicating confirmation of abuse.

*Prison and Detention Center Conditions.*—Prison conditions varied, and some were poor. The government permitted visits by independent human rights observers.

In their April 18 report, the National Assembly's Human Rights Defense Committee (HRDC) reported severe overcrowding, poor sanitation, inadequate containment of infectious diseases, and lack of sufficient medical staff as common problems in the old prison complex.

There were reports that authorities mistreated prisoners and failed to prevent inmate-on-inmate violence, including rape. During the year expatriates at the deportation facility in Shuwaikh were incarcerated between 10 days and 2 months, on average, awaiting deportation.

Construction of a new men's prison was finished in 2004, and the first prisoner transfers took place during the year, reducing previously severe overcrowding conditions at the older, 3,000-bed prison. The new facility met all international standards for prisons.

The Ministry of Awqaf and Islamic Affairs (MAIA) offered job skills and societal values training to inmates, and the Social Reform Society, an Islamist nongovernmental organization (NGO), provided drug rehabilitation programs for incarcerated addicts.

The HRDC monitored prison conditions throughout the year and visited the facilities in March. The government allowed the International Committee of the Red Cross (ICRC), which maintains an office in the country, access to certain categories of inmates: Iraqi prisoners of war, *bidoon* (Arabic for "without" meaning "without citizenship") (see section 5), citizens of states without diplomatic relations with the country, and a returned citizen detainee from Guantanamo (see section 4).

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. In general police officers must obtain an arrest warrant from state prosecutors or a judge before making an arrest (see section 1.f.), although in misdemeanor cases the arresting officer may issue them. There were credible reports of police arresting and detaining foreigners without a warrant, based on accusation by a third party.

*Role of the Police and Security Apparatus.*—The police, responsible for law enforcement and nonnational security-related crimes, constitute a single national force. The Kuwait State Security oversees intelligence and national security-related matters. Both are under the purview of civilian authorities of the MOI. The military is responsible for external security.

During the year there were credible reports of police corruption and abuse of detainees during interrogation (see section 1.c.). In September the criminal court sentenced two prison guards for smuggling cell phones to prisoners in exchange for bribes. However, unlike in the past, no security officials were relieved of their duties as a result of credible allegations of abuse of detainees during interrogation. In cases of alleged police abuse, the district chief investigator examines abuse allegations and refers worthy cases to the courts for trial. There were no reported government efforts during the year to reform the police or security forces.

*Arrest and Detention.*—According to the penal code, suspected criminals may be held at a police station for up to four days without charge, during which time security officers may prevent lawyers and family members from visiting them. In such cases lawyers are permitted to attend legal proceedings but are not allowed to have direct contact with their clients. If charges are filed, prosecutors may remand a suspect to detention for an additional 21 days. Prosecutors also may obtain court orders for further detention pending trial. There is a functioning bail system for defendants awaiting trial. Detainees were allowed prompt access to a lawyer of their choice. There were no reports of political detainees.

Of the approximately 3,500 persons serving sentences or detained pending trial, approximately 150 were held in the “state security ward” on security grounds, including some held for collaborating with Iraq during the 1990–91 occupation.

The government did not return deportees to their countries of origin forcibly, allowing those who objected to remain in detention (see section 2.d.) Arbitrarily lengthy detention before trial was a problem, and approximately 10 percent of the prison population consisted of pretrial detainees.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary and the right to a fair trial and states that “judges shall not be subject to any authority”; however, the emir appoints all judges, and the renewal of judicial appointments is subject to government approval. Judges who are citizens have lifetime appointments; however, many of the judges were noncitizens who held one- to three-year renewable contracts. The Ministry of Justice (MOJ) may remove judges for cause but rarely does so. Foreign residents involved in legal disputes with citizens frequently claimed that the courts showed bias in favor of citizens.

The secular court system tries both civil and criminal cases, all of which originate with the court of first instance, composed of a three-judge panel. Both defendants and plaintiffs may appeal a verdict to the high court of appeals, with a three-judge panel, which may rule on whether the law was applied properly as well as on the guilt or innocence of the defendant. High court of appeals decisions may be presented to the court of cassation, which conducts a limited, formal review of cases by five judges to determine only whether the law was applied properly. The emir has the constitutional authority to pardon or commute all sentences.

*Trial Procedures.*—By law criminal trials are public unless a court or the government decides that “maintenance of public order” or “preservation of public morals” necessitates closed proceedings. There is no trial by jury.

Defendants, who enjoy a presumption of innocence, have the right to confront their accusers and appeal verdicts. Defendants in felony cases are required by law to be represented in court by legal counsel, which the courts provide in criminal cases. The Bar Association is obligated upon court request to appoint an attorney without charge for indigent defendants in civil, commercial, and criminal cases. Virtually all indigent criminal defendants asked for and received free counsel, totaling approximately 15 referrals per day. Very few indigent civil and commercial plaintiffs requested this service. The law affords these protections to all citizens. Once the case went to trial, defendants and their attorneys had access to government-held evidence relevant to their cases.

Sunni and Shi’a Shari’a (Islamic law) courts have jurisdiction over family law cases for Muslims. Secular courts allow anyone to testify and consider male and female testimonies equally; however, in the family courts the testimony of a man is equal to that of two women. The constitutional court has the authority to issue binding rulings concerning the constitutionality of laws and regulations. The court, whose members are senior judges from the civil judiciary, also rules in election disputes. The martial court convenes in the event the emir declares martial law. There is no functioning military court.

*Political Prisoners.*—There were no reports of political prisoners during the year.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for individual privacy and the sanctity of the home, and the government generally respected these rights in practice. The law generally requires police to obtain a warrant to search both public and private property; however, it permits searches without warrant if alcohol or narcotics are suspected on the premises or



if police are in pursuit of a suspect fleeing the scene of a crime. A warrant may be obtained from the state prosecutor or, in the case of searches of private property, from a judge (see section 1.d.). The security forces occasionally monitored the activities of persons and their communications.

The law forbids marriage between Muslim women and non-Muslim men and requires male citizens serving in the military to obtain government approval to marry foreign nationals. In practice the government only offers nonbinding advice in such matters (see section 2.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and the press “in accordance with the conditions and in the circumstances defined by law”; however, the government restricted these rights in practice. The government practiced prepublication censorship, and journalists continued to practice self-censorship.

The press and publications law prohibits the publication of any direct criticism of the emir or of official government communications with other states and bans material that serves to “attack religions” or “incite people to commit crimes, create hatred, or spread dissension among the public.” For violating the law, article 28 provides a maximum imprisonment of six months, increased to one year if repeated, and/or a fine. Administrative punishments are also possible, including confiscation, closure, and withdrawal of licenses without a court ruling. The criminal law also contains an array of press-related charges, such as offense to religious sensibilities, public morality, and the “basic convictions of the nation.” The MOI threatened to impose penalties against individual publishers and editors believed to have criticized government policies or discussed subjects deemed offensive to Islam, tradition, or the state.

The country had five Arabic and three English-language daily newspapers, all of which were privately owned. The government owned and controlled nine local radio and five television stations. In October 2004 the country’s first private television news channel, Al-Rai, began broadcasting. The private satellite channel was affiliated with its sister company, *Al-Rai Al-Aam* newspaper.

International media outlets operated bureaus in the country. On May 10, the government permitted Qatar-based Al-Jazeera to reopen its office after having closed the operation in 2002 for the channel’s “hostile” stance toward the country and for security reasons.

There were reports of security forces subjecting journalists to arrest during the year. On January 5, police detained a citizen correspondent from Dubai-based Al-Arabiya news channel and a journalist from the Kuwait News Agency on charges of reporting news that “harmed the national interest.” On January 8, they were released on bail and acquitted by a criminal court on May 21. On September 20, the high court of appeals upheld their acquittals.

The law requires jail terms for journalists who defame religion (see section 2.c.). The law provides that any Muslim citizen may file criminal charges against an author whom a citizen believes to have defamed Islam, the ruling family, or public morals. Citizens often filed such charges for political reasons.

Although acquitted in January, an appeals court sentenced Ahmed al-Baghdadi on March 19 to a 1-year suspended sentence, \$6,840 (2 thousand dinars) fine, and 3 years’ probation for a June 2004 article in which the author criticized the Ministry of Education (MOE) for increasing Islamic education lessons at the expense of music courses. The newspaper’s editor received a \$171 (50 dinars) fine for publishing the column. Three Islamist activists filed the suit claiming the article defamed Islam.

The government ended legal prepublication censorship in 1992. However, journalists continued to practice self-censorship.

Satellite dishes were widely available and operated without restriction. However, the MOI censored all books, films, periodicals, videotapes, and other imported publications deemed morally offensive. The MOI censored media for political content and did not grant licenses to political magazines. The MOI controlled the publication and distribution of all informational materials.

Publishers must obtain an operating license from the MOI to begin publishing a newspaper. There is no process for appeal if the license is not granted. Publishers may lose their license if their publications do not appear for six months, a stipulation preventing publishers from publishing sporadically. Individuals also must obtain permission from the MOI before publishing any printed material, including brochures and wall posters.

The MOI’s Technical Compilations Department-Cinema Censorship Section censored movies shown in theaters based on objectionable content such as sexual scenes, including kissing; extreme violence; and profanity.

According to the latest government statistics, there were approximately 567 thousand Internet users. On February 6, the Ministry of Communications (MOC) began blocking Web sites considered to “incite terrorism and instability.” The government required Internet service providers to block some political sites and webpages deemed immoral. Internet cafe owners were obligated to obtain the names and civil identification numbers of customers and to submit the information to the MOC upon request.

The law provides for freedom of opinion and of research; however, academic freedom was limited by self-censorship, and academics were legally prohibited from criticizing the emir or Islam.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly; however, the government restricted this right in practice. Although public gatherings required government approval, the law protects *diwanias* (informal weekly social and political gatherings). Many adult male citizens, including members of the government and of the National Assembly, and increasing numbers of female citizens hosted or attended diwanias to discuss current events. The diwaniya system provided an important forum for public debate on economic, political, and social issues. Women also held diwanias of their own, but such diwanias were uncommon; a few diwanias were open to both sexes. The government required a permit for demonstrations, which it issued routinely.

There were a few public demonstrations during the year. Demonstrators were orderly, and the police did not interfere in most cases. For example, on February 21, 200 marchers protested peacefully near the Lebanese embassy, a week after the assassination of former Lebanese prime minister Rafiq al-Hariri, as police looked on. On March 7, an estimated 700 men and women rallied in front of the National Assembly in support of women’s suffrage. On May 16, a pro-rights demonstration of 50 persons preceded the assembly’s vote to grant women’s political rights.

*Freedom of Association.*—The law provides for freedom of association; however, the government restricted this right in practice. The law prohibits associations from engaging in political activities. The government refused to recognize political parties; however, several unofficial parliamentary blocs existed and were active in the National Assembly (see section 3).

The government used its power to license as a means of political control. There were 72 officially licensed NGOs in the country, including a bar association, professional groups, and scientific bodies. The Ministry of Social Affairs and Labor (MOSAL) licensed 19 NGOs during the year compared with only 1 in 2004. There were 160 NGOs pending licensing by the MOSAL; many had been waiting years for approval.

NGOs licensed prior to 2004 continued to receive an annual government subsidy of \$41,040 (12 thousand dinars) for their operating expenses, including travel to international conferences. Newly licensed NGOs, however, no longer qualified for financial assistance. The MOSAL rejected some license requests on the grounds that established NGOs already provided services similar to those proposed by the petitioners. The minister has the prerogative to change a proposed NGO’s name prior to licensing. Members of licensed NGOs must obtain permission from the MOSAL to attend international conferences (see sections 2.d. and 4).

There were hundreds of unlicensed civic groups, clubs, and unofficial NGOs in the country. These unofficial associations did not receive government subsidies and had no legal status. The government reportedly did not close any unlicensed NGOs or unregistered branches of Islamic charities during the year. The government removed more than 80 unlicensed street-side charity boxes during the year in an attempt to regulate fundraising and prevent misuse of funds.

*c. Freedom of Religion.*—The constitution provides for freedom of religion; however, the government placed some limits on this right. The constitution protects the freedom to practice religion in accordance with established customs, provided that it does not conflict with public policy or morals. The constitution declares that Islam is the state religion and that Shari’a is “a main source of legislation.”

The MAIA has official responsibility for overseeing religious groups. Officially recognized Christian churches must deal with a variety of governmental entities, including the MOSAL (for visas and residence permits for clergy and other staff) and the local municipality (for building permits). While reportedly there was no official government “list” of recognized churches, seven Christian churches had some type of official recognition enabling them to operate openly. These churches—Anglican, Armenian Orthodox, Coptic Orthodox, Greek Catholic (Melkite), Greek Orthodox, National Evangelical (Protestant), and Roman Catholic—had open “files” at the MOSAL, allowing them to bring in staff.

Four denominations were widely understood to benefit from full government recognition and were allowed to operate compounds officially designated as churches: Anglican, Coptic Orthodox, National Evangelical, and Roman Catholic (including Latin Catholic and Maronite). However, there were quotas on the number of clergy and staff they could bring into the country, and most existing facilities were inadequate to serve their respective communities.

On September 29, the government announced a grant of 6,500 square meters to the Melkite Catholics to construct a new church. However, on December 20 the Municipal Council reduced the amount to two thousand square meters for the building and two thousand square meters for a parking lot. The parking lot would be public, so the church would not have exclusive use of it. Church leaders rejected this offer and were pursuing the matter further. In 2004 the National Evangelical Church petitioned the government for 15 to 20 acres of new land to alleviate overcrowding. The government had not responded by year's end.

The government prohibited missionaries from proselytizing to Muslims, although they may serve non-Muslim congregations. The law prohibits organized religious education other than Islam; however, the government did not enforce this law rigidly, and informal religious instruction occurred inside private homes and on church compounds without government interference. Government inspectors reportedly visited public and private schools outside church compounds periodically to ensure that no religious teaching other than Islam took place. There were credible reports that government inspectors periodically monitored religious worship services for possible antigovernment, extremist, or proselytizing rhetoric. The Islamic Presentation Committee (IPC), under the authority of the MAIA, actively encouraged proselytizing to non-Muslims.

A 1980 law prohibits the naturalization of non-Muslims; however, citizens who were Christians before 1980 were allowed to transmit their citizenship to their descendants.

By law a non-Muslim man must convert to Islam when he marries a Muslim woman. The law forbids marriage between Muslim women and non-Muslim men (see section 1.f.). A non-Muslim woman is not required by law to convert to Islam to marry a Muslim man. In practice, however, many non-Muslim women faced tremendous economic and societal pressure to convert. Failure to convert may mean that, should the couple later divorce, the Muslim father would be granted custody of any children. Failure to convert may also result in a wife not being eligible to inherit her husband's property or to be naturalized.

*Societal Abuses and Discrimination.*—The Shi'a minority remained disadvantaged in the provision of mosques, access to Shi'a religious education, and representation in higher levels of the government. Approximately 287 thousand citizens (30 percent of the total) and an estimated 100 thousand noncitizen residents are Shi'a. There were approximately 36 Shi'a mosques and approximately 1,070 Sunni mosques. Five Shi'a were elected to the 50-seat National Assembly in 2003, compared with 6 Shi'a in the previous assembly. On June 15, the government appointed the first woman, a Shi'a, to the Council of Ministers. The government allows Shi'a to follow their own jurisprudence in matters of personal status and family law at the first instance and appellate levels.

Shi'a were free to worship without government interference, and the overall situation for Shi'a improved somewhat during the year. Since 2001 the government has approved the establishment of six new Shi'a mosques, three of which were under construction. The Municipal Council still has not provided licenses to begin construction of the other three mosques.

There were no facilities in the country to educate Shi'a imams. The MOE reviewed a Shi'a proposal to establish a private college to train Shi'a clerics in the country rather than in Iran or Iraq; however, no action had been taken by year's end. On January 22, a Shi'a leader called on the MOE to remove references declaring Shi'a as nonbelievers from high school Islamic education textbooks, which are based on the Sunni interpretation of Islam.

Unlike in the previous year, the country's Shi'a population was not permitted to publicly celebrate one of their religious traditions. In February the government denied a request to reenact the Battle of Karbala, but Shi'a openly celebrated the holiday with police protection at mosques and tents.

Members of religions not sanctioned in the Koran, such as Baha'is, Buddhists, Hindus, and Sikhs, may not operate official places of worship as these religions lack legal status. However, they were allowed to worship privately in their homes without government interference.

While some discrimination based on religion reportedly occurred on a personal level, most observers agreed that it was not widespread. A few Muslim converts to Christianity reported harassment and discrimination by police and employers.

There were no reports of anti-Semitic acts on behalf of the government. Unofficial anti-Semitic commentary from the media and from some mosque preachers did occur. On August 7, a private citizen purchased newspaper space to run an advertisement with anti-Semitic imagery. On August 10, the government referred the two newspapers that carried the advertisement to the attorney general for prosecution under the law, which forbids publishing religious material without a license. The government took no action to enact laws relating to the protection of the rights to religious freedom of Jews, although there are no known Jewish citizens. There is no known expatriate Jewish community present. There had been past examples of anti-Semitic rhetoric in government-sponsored education curricula, specifically in reference to the Arab-Israeli conflict. In May the MAIA sponsored a conference on moderation and tolerance. In September the MAIA conducted a workshop for mosque imams and preachers to combat extremism and violence.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the government placed some limits on freedom of movement in practice. Citizens have the right to travel freely within the country and to change their residence and workplace as desired.

Unmarried women must be 21 years of age or older to obtain a passport and travel abroad without permission of a male relative. Married women must obtain their husbands' permission to apply for a passport. A married woman with a passport does not need her husband's permission to travel. Immigrant authorities, at the husband's request, may prevent her departure from the country by a 24-hour travel ban, after which a court order is required to prevent the wife from leaving the country. In practice, however, many travel bans were issued without court order, effectively preventing citizens and foreigners from departing.

All minor children under 21 years of age require their father's permission to travel outside the country.

The law permits the government to place a travel ban on any citizen or foreigner who has a legal case pending before the courts. The law also permits any citizen to petition authorities to place a travel ban against any other person suspected of violating local law. In practice this has resulted in citizens and foreigners being prevented from departing the country without investigation or a legal case going before a court of law. Although illegal, many citizen employers routinely confiscated the travel documents of foreign employees, forcing them to remain in the country against their will. There did not appear to be any concerted government effort to prevent employers from engaging in this practice.

Members of licensed NGOs must obtain government approval to attend international conferences as official NGO representatives (see sections 2.b. and 4). The government severely restricted the ability of its bidoon population to travel abroad (see section 5). However, the government permitted some bidoon to travel to Saudi Arabia during the year for the annual hajj pilgrimage. In accordance with the law, the MOI issues bidoon a single-use passport for hajj travel.

The law prohibits the deportation or forced exile of citizens, and there were no reports of such practices during the year. The penal code stipulates that noncitizens convicted of felonies be deported after finishing their jail terms. Under this provision, citizens can lose their citizenship if sentenced for a felony during the first 10 years of obtaining citizenship, discharged from a public job for "acts against integrity" during the first 10 years after obtaining citizenship, or determined to have established residence in a foreign country and have joined an authority designed to undermine the country.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the UN 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum. The law prohibits the extradition of political refugees. The government stated that it did not deport persons who claimed to fear persecution in their home countries; however, it often kept such persons in detention rather than grant them permission to live and work in the country. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

In February the government ceased to permit the ICRC to verify whether deportees objected to returning to their countries of origin and detained them with objec-

tions until they either changed their minds or made alternative travel arrangements.

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

Citizens did not have the right to change their government. The law provides that the elected National Assembly must approve the emir's choice of crown prince (the future emir). If the assembly rejects the emir's nominee, the emir then submits three names from which the assembly must choose. In order to vote and seek election to the National Assembly, citizens must be at least 21 years of age, have been citizens for at least 20 years, and not be members of the armed forces, police, or other MOI uniformed personnel.

Under the law the emir holds executive power and shares legislative authority with an elected National Assembly. The emir appoints the prime minister who presides over a 16-member cabinet (Council of Ministers), whom the prime minister chooses in consultation with the emir.

The law empowers the emir to suspend its provisions and rule by decree in a state of emergency when martial law is declared. The constitution provides that cabinet members sit in the National Assembly and vote on legislation. There are 50 elected National Assembly members, each of whom serves a 4-year term, and 15 appointed cabinet members who sit as ex-officio members. At least one member of the cabinet must be an elected member of parliament (MP).

Members regularly require ministers to appear before the full National Assembly for formal inquiries, known as "grillings," when MPs are dissatisfied with their own or a ministry's performance. In the past pressure exerted by the National Assembly, including through votes of no confidence, has led to the resignation or removal of ministers.

*Elections and Political Participation.*—There were no reports of corruption or fraud associated with the June 2 municipal council elections, a body with national jurisdiction over infrastructure development and commercial planning. The council, with a 4-year term, is composed of 16 members, 10 popularly elected and 6 appointed by the government.

During the July 2003 parliamentary elections, the electorate consisted of approximately 143 thousand male citizens and there were no political parties. Within these parameters and recognizing that the government and the opposition reportedly bought votes, the elections were considered to have been relatively free and fair.

The government has not proposed legislation to recognize political parties, which are neither prohibited nor allowed by the law; however, several well-organized and unofficial blocs, acting much like political parties, existed and were active in the National Assembly. Assembly candidates must nominate themselves as individuals and may run for election in any of the country's 25 constituencies. The top two finishers in each constituency are elected in single-round balloting.

On January 29, Salafi Islamist leaders, an opposition faction, held a press conference announcing the establishment of a political party, Hizb Al-Ummah (Nation's Party), to confirm the right of political pluralism, transfer power through peaceful means, adopt Shari'a, and reject all forms of foreign occupation. On February 1, in response to the group's pronouncement, the public prosecutor charged nine of the Salafi leaders with plotting to overthrow the government and violating association and press laws, crimes carrying a maximum sentence of 15 years in prison. They were released on \$1,026 (300 dinars) bail after a 10-hour interrogation. The case never came to trial.

In accordance with the practice of the ruling family, but not required by the law, the crown prince has also been the prime minister; however, in an unprecedented development in 2003, the emir named one of his brothers, the then foreign minister, as prime minister, who promptly formed a new cabinet.

On May 16, the National Assembly passed legislation granting women the right to vote and run for elected office. On June 3, the government appointed women to two of the six nonelected municipal council spots. On June 15, the prime minister appointed a woman as minister of planning and minister of state for administrative development, the first-ever female cabinet member. Women also held some relatively senior nonpolitical positions within certain ministries. The country's ambassador to its United Nations Mission was female. Regarding the May 16 legislation that granted women full political rights, a group of Islamist parliamentarians attached an amendment to the law, which passed, requiring women to conduct themselves in accordance with Shari'a when participating in political activities; the amendment's impact was unclear.

The prime minister appointed 1 minority Shi'a member to the 16-member cabinet as the minister of information in 2003; however, he resigned on January 2 pending

parliamentary questioning. Parliamentary questionings forced the resignation of three other ministers, none of whom were Shi'a, during the early months of the year. The new minister of planning, appointed on June 15, became the sole Shi'a cabinet member. Of 50 elected National Assembly members, 5 were Shi'a.

*Government Corruption and Transparency.*—There was corruption on the national level during the year by citizens and noncitizens; foreign workers and a minor official were convicted and the deputy prime minister was exonerated. On May 31, a group of current and past lawmakers launched a local chapter of the Global Organization of Parliamentarians Against Corruption to combat corruption and educate the public about its societal dangers. On June 22, the criminal court sentenced three men, including an official from the Capital Works Permits Department, to 5 years in prison for accepting an \$8,721 (2,550 dinars) bribe to forge 49 work permits. The court also required the government official, originally charged in February, to pay \$17,100 (5 thousand dinars) in fines. On October 19, the court of appeals reduced the official's incarceration to three years and the other men's to two years. On September 4, the media reported up to 1,200 noncitizen nurses had been forced to pay bribes of \$1,710 (500 dinars) to \$8,550 (2,500 dinars) to the Ministry of Health's (MOH) appointment committee to secure healthcare jobs. The MOH announced on September 10 the formation of an independent panel to investigate the charges. An investigation was ongoing at year's end.

The law provides for public access to unclassified government information by citizens and noncitizens alike. The government enforced this law in practice.

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

The law permits the existence of NGOs; however, the government continued to deny licenses to some NGOs. The only local human rights NGO was the Kuwait Human Rights Society (KHRS), licensed in August 2004. The KHRS produced an annual report on human rights in the country in the past, sporadically published a magazine, and occasionally met with senior government officials.

The government permitted international human rights organizations to visit the country and establish offices, although none operated in the country. Several organizations, including AI and Human Rights Watch, conducted fieldwork and reported good communication with and reasonable cooperation from the government.

The government has cooperated fully in the work of the UN Special Rapporteurs for Iran and Iraq and the high-level representative of the secretary general on the issue of its citizens missing in Iraq since the end of the Gulf War. The government permitted visits by international organizations. The International Labor Organization's (ILO) Regional Director for Arab States visited the country to discuss labor issues with government officials several times during the year.

The National Assembly's HRDC is an advisory body. The group visited the country's penitentiaries and recommended and sought funding for the construction of a nursery at the central prison, which was scheduled to open in 2006.

On June 6, the MOSAL established the Kuwaiti Society for Fundamental Human Rights. The NGO, open to all citizens, was created to protect and support human rights in addition to educating the public on the need to defend human rights.

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

The law prohibits discrimination based on race, disability, or language; however, in practice the government did not uniformly or consistently enforce laws against discrimination. A number of laws and regulations discriminated against women and noncitizens. There were no specific reports of any official or societal discrimination against persons with HIV/AIDS.

*Women.*—Violence against women continued to be a serious and overlooked problem. The law does not specifically prohibit domestic violence, although cases are tried as assault. Each of the country's 83 police stations reportedly received weekly complaints of domestic abuse. The courts have found husbands guilty of spousal abuse; however, most domestic abuse cases are not reported, especially outside of the capital. Abusive husbands, if convicted, rarely faced severe penalties.

There are no shelters or hot lines for victims of domestic violence. Some noncitizen women married to citizen men reported domestic abuse and inaction or discrimination by police during the year. By law a victim of domestic violence may file a complaint with the police and request that formal charges be brought against the abuser. In practice, however, even with documented evidence of the abuse such as eyewitness accounts, hospital reports, and social worker testimony, police officials rarely took into custody perpetrators of domestic violence. An abused woman may petition for divorce based on injury, but the law does not provide clear legal standard as to what constitutes injury. In addition a woman must provide at least two

male witnesses (or a male witness and two female witnesses) to attest to the injury committed. Individuals reportedly bribed police officials to ignore charges of domestic abuse.

The law provides that citizens found guilty of crimes that violate moral integrity, such as rape or incest, are forbidden from public employment. However, rape and sexual assault remained serious problems, particularly for domestic servants and other foreign workers. Local newspapers highlighted numerous rape and sexual assault incidents during the year, mostly against female expatriates.

The police occasionally arrested rapists, and several were tried and convicted during the year; however, laws against rape were not always enforced effectively. On July 16, a man pleaded innocent to an April 18 rape of a female medical student; at year's end he remained in police custody awaiting trial. On March 21, a man attempted to rape a female doctor at the Farwaniya Hospital. He remained in police custody at year's end. On August 23, police arrested an Egyptian male after a traffic violation for a warrant in connection with the rape of an Indonesian maid earlier in the month. In September 2004 three citizens and two Dominicans allegedly kidnapped and raped a Filipina maid; police arrested the five in October 2004.

Honor crimes are prohibited; however, article 153 of the penal code reduces penalties for these crimes to misdemeanors. The maximum sentence is three years in prison. There were no reported cases of honor crimes during the year.

In February 2004 police arrested a citizen male who held captive, molested, and tortured his wife. On March 27, the court of appeals overturned the man's November 2004 sentence of 15 years in prison after the defense argued he did not intend to molest his wife after learning of her marital infidelities.

The police actively enforced laws against pandering and prostitution, with arrests reported regularly. Prostitutes generally were deported to their countries of origin; some, however, were released after signing a pledge of good conduct. Procurers received stiff jail terms. Some unemployed, runaway foreign domestic workers were recruited or kidnapped into prostitution (see section 5, Trafficking).

The country is a destination for internally trafficked women, and instances of internal trafficking were reported during the year (see section 5, Trafficking).

There is no specific law that addresses sexual harassment. Human rights activists have characterized sexual harassment against women in the workplace as a pervasive but unreported problem.

Women continued to experience legal, economic, and social discrimination. Shari'a discriminates against women in judicial proceedings, freedom of movement, and marriage (see sections 1.e., 1.f., 2.d., and 2.c.). Inheritance is governed by Shari'a, which differs according to the branch of Islam. In the absence of a direct male heir, Shi'a women may inherit all property, while Sunni women inherit only a portion, with the balance divided among brothers, uncles, and male cousins of the deceased. Citizen families (a "family" must always include a male) are entitled to receive a plot of land and a \$239,400 (70 thousand dinars) interest-free government loan ("housing allowance") to purchase a house. The government registers the house in the names of both the husband and the wife. However, in case of divorce, a female citizen loses her right to the house regardless of any payments she may have made on the loan. She may continue to reside in the house if she has custody of any minor children resulting from the marriage, but she must move once the children reach age 18. A divorced single mother and her minor children or a female citizen married to a noncitizen cannot, by law, qualify for the government housing allowance.

The law provides for female "remuneration equal to that of a man provided she does the same work." This provision, however, was not often respected in practice. The law prohibits women from working in "dangerous industries" and trades "harmful" to health. Educated women maintained that the conservative nature of society limited career opportunities. An estimated 40 percent of female citizens of working age were employed. A few women have been appointed to senior positions in the government and state-owned Kuwait Petroleum Corporation, including one female minister and two municipal council members.

The law discriminates against female citizens married to noncitizen men, which constituted 4 percent of all marriages conducted in 2004. These women, unlike male citizens, are not entitled to government housing subsidies and are required by law to pay annual residence fees of \$684 (200KD) for their husbands and children. The law does not recognize marriage as the basis for granting residency to noncitizen husbands. Instead the law grants residency only if the husband is employed. By contrast, male citizens married to noncitizen women do not have to pay residency fees for their spouses, and their spouses' right to residency derives from marriage.

Classes at all universities, private and public, are segregated by gender as required by law, although enforcement varies.

Polygamy is legal but more common among tribal elements of the population.

*Children.*—The government is generally committed to the rights and welfare of citizen children for whom education is free through the university level. Primary and secondary education are compulsory and universal. The Ministry of Planning estimated primary enrollment at 87 percent for the 2004–05 academic year. In the 2003–04 school year, 57 percent of children completed secondary school. Both boys and girls had equal access to the same quality of education.

The government provides free healthcare and a variety of other services to citizen children; noncitizen children must pay a small fee to be admitted into a health facility and pay additional fees for specialized care. Both boys and girls had access to the same quality of medical treatment.

There was no societal pattern of child abuse, although there were some isolated instances.

Citizen girls younger than 15, the legal age, continued to marry within some tribal groups. The MOJ estimated the incidence of underage marriage ranged from 2 to 3 percent of total marriages. The government attempted to educate the rural community via the MAIA and through imams in local mosques.

Underage Asian girls reportedly worked as domestic servants (see section 6.d.).

Citizen and legal resident boys as young as five- or six-years-old were reportedly used as camel jockeys. In February camel races continued to take place involving underage boys. In July the MOSAL reiterated a March 2004 ministerial decree banning this employment. On October 12, the Public Authority for Youth and Sports debuted robot camel jockeys, which replaced children effective the 2005–06 racing season. There were no reports of underage camel jockey use after October.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to the country. Laws against coercion, forced labor, kidnapping, prostitution, rape, slavery, and other acts can be used to prosecute trafficking crimes. Penalties for trafficking-related crimes range from fines and incarceration for assault and battery to life sentences for rape.

On September 20, police broke up a Filipino prostitution ring operating at a pool hall in Salmiya. Thirteen girls and four men were arrested for selling the services of runaway maids and illegal residents.

The country is a destination for men, women, and children trafficked primarily from Bangladesh, India, Pakistan, the Philippines, and Sri Lanka. Some foreign workers, mostly female domestics, have been abused by their employers and coerced into situations of debt bondage or involuntary servitude. Instances of laborers associated with visa trading schemes and women trafficked into prostitution were reported during the year. The principal traffickers were labor recruitment agencies and sponsors of domestic workers.

The physical or sexual abuse of foreign women working as domestic servants was a problem. Some employers physically abused foreign women working as domestic servants, and despite economic and social difficulties for a domestic servant to lodge a complaint, these women continued to report such abuse. The local press devoted considerable attention to the problem, and both the police and courts have taken action against employers when presented with evidence of serious abuse. Some rapes resulted in pregnancies, and there were reports of illegal abortions. Occasionally domestic workers were charged with assaulting their employers; in such cases the workers claimed that they acted in response to physical abuse or poor working conditions.

In January two Filipina housemaids filed a case against their female employers for burning them with an iron. One received a release from her employer in February to continue working in the country. The other filed a case, which was ongoing at year's end, against the abusive sponsor and returned to the Philippines.

There also were dozens of reports of domestic workers allegedly committing or attempting suicide because of desperation over poor working conditions or abuse. On January 16, three Indonesian maids fell to their death from a sixth-floor balcony, reportedly attempting to escape from their employers. On February 7, a Filipina maid sustained serious injury after jumping from her sponsor's third-floor terrace.

On October 10, police rescued an Indian woman after she escaped from a building where she was held in captivity as a prostitute. The woman had reportedly been kidnapped and sold to her Bangladeshi captor. Police arrested two men in connection with the crime.

There were no specific reports of government or police involvement in trafficking during the year.

The government took some measures to protect trafficking victims. A conciliation center attached to a district police station processed some complaints filed by domestic servants or their source country embassies against abusive or exploitative employers. A government domestic labor office, under the authority of the MOI, investigated and resolved some labor complaints. MOI officials reported that the gov-



ernment revoked the licenses of 163 labor recruitment agencies for violating regulations during the year. There were 465 licensed agencies operating at year's end.

In June, per decree 568, the government designated the MOSAL to head an inter-ministerial committee (composed of officials from the Ministry of Commerce, MOI, and MOSAL) to coordinate antitrafficking efforts.

Noncitizen domestic employees have the right to sue their employers for abuse but few do, fearing judicial bias and deportation. Local news sources reported a few criminal cases filed against abusive employers by domestics, but informal out-of-court conciliation was attempted in most cases, usually with the assistance of the domestic's source country embassy. The government deported many runaway domestics.

Runaway servants, including those alleging physical or sexual abuse, often sought shelter at their country's embassy pending repatriation or a change in employer (see sections 6.c. and 6.e.). Of an estimated 450 thousand domestic servants in the country, an estimated 800 women were reported to be in informal shelters run by source country embassies on any given day during the year.

The government and NGOs took steps to assist trafficking victims. The courts prosecuted several trafficking-related crimes including an April 3 decision to jail a citizen for 15 years for an April 2004 case of abuse resulting in a maid's paralysis. On May 9, a maid was awarded \$4,460 (1,304 dinars) in restitution for unpaid wages. In early December police arrested a bidoon on charges of enslaving a domestic worker. The man reportedly confessed to the crime. The MOI occasionally paid for airline tickets or chartered planes to repatriate runaway or abused domestic servants when their employers refused to repatriate them. In 2004 some NGOs, such as KHRS and the Kuwait Friendship Society, also paid for return airline tickets or legal fees on behalf of runaway or abused domestics.

Employers often accused their runaway domestics of theft or other crimes to avoid furnishing tickets. In such cases the domestics often were deported without owed compensation. The MOI blacklisted some delinquent employers from sponsoring new domestics, but some used personal connections to circumvent the prohibition.

The government highlighted its efforts to prevent trafficking and improve protections. On July 8, the MOI issued a decree requiring a new three-party contract between domestic servants, sponsoring employers, and recruitment agencies. The new contract, of which enforcement was to begin in January 2006, affords servants three breaks per day, one month of paid leave per year, and on-time salary payment, among other provisions. The new contract replaced a previous version between the sponsor and the labor recruitment agency, outlining the rights and responsibilities of both parties.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities and imposes penalties against employers who refrain from hiring persons with disabilities without reasonable cause. The law also mandates access to buildings for persons with disabilities. The government generally enforced these provisions. There was no reported discrimination against persons with disabilities; however, noncitizens did not have access to government-operated shelters or receive stipends to paid citizens with disabilities, which covered transportation, housing, job training, and social welfare.

On November 28, in commemoration of National Solidarity Day with the Disabled, the MOSAL participated in an awards ceremony honoring citizens with disabilities who played a more active role in society. The same day, the MOE announced the allocation of 160 thousand square meters to build an education facility for students with disabilities.

*National/Racial/Ethnic Minorities.*—The legal status of tens of thousands of bidoon residents remained unresolved. The bidoon are Arabs who have residency ties to the country, some persisting for generations and others for briefer periods, but who either lack or conceal documentation of their true nationality. The exact number of bidoon residents was unknown, but a 2004 government census estimated 107 thousand persons to be bidoon. Since the mid-1980s, the government has actively discriminated against the bidoon in areas such as education, employment, medical care, and mobility.

The MOE approved free education for all children of bidoon parents effective as of the opening of the 2004–05 school year. The bidoon also began to receive free health care. During the year the Waqf Health Fund, a partially government-funded program, signed contracts with several insurance companies to pay the fees for bidoon health services.

The government discontinued their access to most government jobs. Some bidoon served in the nonofficer ranks of the armed forces, although bidoon enlistees are now barred from joining. Others were accepted in the institutions of the Public Au-

thority for Applied Education and Training. The government denied the bidoon official documents such as birth certificates, civil identification, and marriage certificates, which made it difficult for many unregistered bidoon, particularly younger bidoon, to find employment. The government did not issue travel documents to bidoon routinely, and if bidoon traveled abroad without documentation, they risked being barred from returning to the country without advance permission from immigration authorities. The children of male bidoon inherit their father's undetermined legal status, even if born to citizen mothers.

Only bidoon registered by June 27, 2000, could begin the process under which they could be documented as citizens. According to this law, bidoon who were able to prove sufficient ties to the country (that is, their presence, or the presence of their forebears, in the country prior to 1965) were eligible to apply for citizenship directly. The government maintained that at least 40 to 50 percent of the bidoon were concealing their true identities. The government granted citizenship to approximately 1,769 bidoon during the year. In recent years a total of 10,200 bidoon received citizenship. There were 87,300 bidoon citizenship requests pending.

Many bidoon are unable to provide documentation proving sufficient ties to the country or present evidence of their original nationality, as they are truly stateless. Others, the government claims 26 thousand over the past several years, have disclosed their true nationalities and have obtained passports from their countries of origin: Iraq, Iran, Syria, Jordan, and Saudi Arabia. Once documented, bidoon are able to obtain residency permits and other official papers.

The political, economic, and long-term budgetary implications associated with extending citizenship, and the generous welfare benefits that come with it, to the equivalent of roughly 5 percent of the population have rendered the issue highly divisive.

There were no reports during the year of the government deciding the nationality of any bidoon without a hearing. There continued to be reports of bidoon obtaining false documents in order to apply for citizenship.

*Other Societal Abuses and Discrimination.*—Discrimination surfaced against homosexuals in societal attitudes and legal issues. In February police charged a group of 28 alleged homosexuals with creating a public disturbance after they met outside a fast-food restaurant.

Unmarried men faced housing discrimination based solely on marital status. Emiri decree 125 of 1992 prohibits single men from obtaining accommodation in many urban residential areas as determined by the Municipal Council. On September 10, the Council of Ministers approved a plan to construct housing for noncitizen single males on the outskirts of the capital and remove them from urban residential areas.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—With the notable exceptions of the country's approximately 453 thousand domestic servants and maritime employees, the labor law provides that most workers have the right to join unions without previous authorization. Foreign laborers employed as domestics constitute one-third of the noncitizen workforce and are specifically excluded from the right to associate and organize. An estimated 80 thousand persons, or 5 percent, of a total workforce of 1.6 million were organized into unions.

For those workers who may join unions, the government restricts the right of freedom of association to only one union per occupational trade and permits unions to establish only one federation, the Kuwait Trade Union Federation (KTUF), which is composed of 15 unions. The Bank Workers Union and the Kuwait Airways Workers Union were independent of the KTUF. The law stipulates that any new union must include at least 100 workers, 15 of them citizens. Both the ILO and the International Confederation of Free Trade Unions have criticized this requirement because it discourages unions in sectors that employ few citizens, such as the construction industry and much of the private sector.

Workers' unions are essentially treated as parastatal organizations (NGOs in local parlance). After vetting and approval, MOSAL provides as much as 90 percent of their budgets. The expanded unions mainly benefited citizen laborers employed in the public sector, while expatriate workers continued to face restrictions.

The government licensed 3 new unions during the year, compared with 20 in 2004, including the Central Bank of Kuwait Laborers Union, Public Authority for Applied Education and Training Labor Union, and Public Environment Authority Laborers Union. At year's end there were 47 officially sanctioned workers' unions.

The government's pervasive oversight powers further eroded union independence. The government subsidized as much as 90 percent of most union budgets and may inspect the financial records of any union.

The most recent government statistics cited 1.4 million noncitizen laborers in the country, comprising 82 percent of the workforce. However, foreign workers constituted approximately 20 percent of KTUF members. The labor law discriminates against foreign workers by denying them union voting rights, barring them from leadership positions, and permitting them to join unions only after five years of residence, although the KTUF stated that this requirement was not widely enforced in practice.

The law empowers the courts to dissolve any union for violating labor laws or for threatening "public order and morals," although such a court decision may be appealed. The emir also may dissolve a union by decree. By law the MOSAL is authorized to seize the assets of any dissolved union. The law subordinates the legal existence of the unions to the power of the state; however, no union was dissolved during the year.

Unions may affiliate with international bodies. The KTUF applied for membership to the International Free Trade Union, and at year's end was awaiting a decision. Unions maintained their established relationships with the ILO.

The labor law prohibits antiunion discrimination. Any worker alleging antiunion discrimination has the right to appeal to the judiciary. Employers found guilty of such discrimination must reinstate workers fired for union activities. There were no reports of discrimination against employees based on their affiliation with a union.

*b. The Right to Organize and Bargain Collectively.*—The labor law provides workers, with the important exception of domestic servants and maritime workers, with the rights to organize and bargain collectively, subject to certain restrictions; the government generally respected in practice the rights of those workers covered by the law. The law limits the right of workers to strike. There were no reported strikes during the year. There are no export processing zones.

The law provides for direct negotiations between employers and "laborers or their representatives" in the private sector. Most disagreements were resolved in such negotiations; if not, either party may petition the MOSAL for mediation. If mediation fails, the dispute is referred to a labor arbitration board composed of officials from the High Court of Appeals, the Attorney General's Office, and the MOSAL.

The civil service law makes no provision for collective bargaining between government workers and their employers. Technically, the government is responsible for establishing wages and employment conditions for civil service workers, but it generally determined benefits in consultation with civil service unions, such as the government Workers Union. Union officials resolved most issues at the working level and had regular access to senior officials.

The law limits the right of workers to strike. It requires all labor disputes to be referred to compulsory arbitration if labor and management are unable to reach a solution. The law does not contain any provision ensuring strikers' freedom from legal or administrative action taken against them by the state. However, the MOSAL was responsive to sit-ins or protests by workers who faced obvious wrongdoing by their employers. On December 6, members of the Union of Justice Ministry Employees protested "unjustifiably low" salaries for assistant judges outside the ministry without interference.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor "except in cases specified by law for national emergency and with just remuneration"; however, many unskilled foreign workers were treated as indentured servants (see section 6.e.).

Some foreign workers, especially less-skilled South Asian workers, lived and worked much like indentured servants. They frequently faced poor working conditions and at times encountered physical or sexual abuse (see sections 5 and 6.e.). In March a citizen employer reportedly tortured and tied his Asian worker to his pickup truck and dragged the victim to his death. The perpetrator claimed to have killed the foreigner because the victim stole something from him. At year's end the employer had not prosecuted.

Domestic servants who ran away from their employers as a result of abuse or poor working conditions were routinely treated as criminals under the law, falling under the purview of the MOI rather than of the labor law protections of the MOSAL. During the year there were dozens of reports of police arresting and charging domestic servants with crimes such as violating immigration procedures for attempting to escape from abusive employers. The police typically regarded such problems as matters of law and order and not as legitimate labor grievances. Employers or local labor recruitment agencies routinely withheld wages from domestic servants to cover the costs involved in bringing them to the country.

Foreign workers may not change their employment without permission from their original sponsors for whom they must have worked for at least two years, or one

year if the worker is a university graduate. Domestic workers were not protected by the labor law and were particularly vulnerable to abuses stemming from restrictions on transferring sponsorship. In many cases employers exercised control over their servants by withholding their travel documents, although the government prohibits this practice and in some instances acted to retrieve the documents of maids involved in disputes.

There are laws aimed at curbing visa trafficking with penalties for both employers and visa traders; however, the government seldom enforced these laws. Reports of illegal visa trafficking were widespread. In this system citizen sponsors agree to sponsor (in name only) foreign workers in exchange for a fee in the range of \$1,539 (450 dinars) to \$4,104 (1,200 dinars). Middlemen, generally noncitizens, would recruit workers from economically depressed source countries for a fee, take a commission, and remit the balance to the nominal sponsor. Once in the country, such agents transferred workers to employers in the informal sector or to parties otherwise unable to sponsor them. Foreign workers recruited with traded visas not only faced possible prosecution for being engaged in illegal employment (that is, working for an employer other than their sponsor) but also were extremely vulnerable to extortion by employers, sponsors, and middlemen.

Visa and residence trading resulted in a growing number of unemployed foreign workers in the country. Many were unable to earn enough money to pay the illegal fees often charged by their local sponsors or local labor recruitment agencies in exchange for residency and work permits. Many suffered from abuse or mistreatment at the hands of their unofficial employers. Abused foreign workers employed on the basis of illegally traded visas typically failed to report incidents of abuse or poor working conditions to authorities for fear of arrest and/or deportation. The government did not make significant progress in efforts to stop this practice, such as by closing front companies for visa traders.

The MOSAL's Labor Inspection Department is responsible for carrying out routine inspections of all private firms to ensure that all registered foreign workers were actually employed by their legal sponsors. The MOSAL suspended the files of employers caught violating labor regulations. According to its most recent statistics, the MOSAL carried out 37,441 inspections to verify whether employment laws were being followed and found 11,002 violations. In 31,172 workplace safety inspections, the MOSAL found 24,802 violations. Finally, in 260 inspections of company-provided housing, the MOSAL found 257 violations. The MOSAL had reportedly suspended over 1,500 employer files by year's end for possible labor violations.

The law prohibits forced and compulsory labor by children younger than 18; however, there were credible reports of boys used as camel jockeys and underage girls working as domestic servants (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor law prohibits child labor, forced or compulsory labor, and exploitation of workers; however, there were credible reports of some underage domestic servants and camel jockeys.

The legal minimum age is 18 years for all forms of work, both full- and part-time. Employers may obtain permits from the MOSAL to employ juveniles between the ages of 14 and 18 in certain trades. Juveniles may work a maximum of six hours a day on the condition that they work no more than four consecutive hours followed by a one-hour rest period.

Some underage workers reportedly falsified their ages in order to enter the country. Some young boys also were used as camel jockeys (see sections 5). In March 2004 the MOSAL issued a decree banning the employment of children under the age of 18 and 45 kilograms (99 lbs) in weight as camel jockeys. The decree, however, references parental consent, thus implying that employment, not participation, is being banned. Some businessmen and camel owners employed their children on a part-time basis. There was no evidence of the use of children jockeys after the introduction of robots in October.

During the year underage Asian girls reportedly worked as domestic servants after entering the country on false travel documents obtained in source countries.

The Labor Inspection Department monitored private firms routinely for labor law compliance, including laws against child labor. There were no reported government programs to prevent exploitative child labor or remove children from such labor.

*e. Acceptable Conditions of Work.*—An institutionalized, two-tiered labor market ensured high wages for citizen employees, most of whom were in government white collar or executive positions, while noncitizen workers, even those in skilled positions, received substantially lower wages. A national minimum wage was in effect for public sector employees. Citizens were guaranteed at least \$684 (200 dinars) per month, while the noncitizens' wage was \$306 (90 dinars). The public sector min-

imum wage provided a decent standard of living for a worker and family. There was no legal minimum wage in the private sector. The MOSAL is responsible for implementing the minimum wage, which was effectively enforced.

Private sector wages ranged from \$17,100 (5 thousand dinars) per month for top managers of large companies to an average of \$1,370 (400 dinars) to \$3,420 (1 thousand dinars) for other skilled professionals and workers. Wages of unskilled workers in the private sector did not always provide a decent standard of living, with housemaids often making less than \$137 (40 dinars) monthly. To be eligible to sponsor family members for residency, workers must receive a minimum wage of \$855 (250 dinars) per month, reduced from \$1,370 (400 dinars) in January 2004 for government employees and in September 2004 for those in the private sector. Many foreign workers who met the minimum income threshold often waited months for government approval to sponsor their immediate family members to the country. Effective in 2003, the government exempted public school teachers from the minimum salary threshold for sponsoring family members.

The law establishes general conditions of work for the private sector, with the oil industry regulated separately. The law limits the standard workweek to 48 hours with 1 full day of rest per week, 1 hour of rest after every 5 consecutive hours of work, provides for a minimum of 14 workdays of leave each year, and establishes a compensation schedule for industrial accidents. The government had amended the law to extend the weekly one-day rest period to temporary workers employed less than six months and to workers in enterprises employing fewer than five persons. Domestic servants and other unskilled foreign workers in the private sector frequently worked in excess of 48 hours, often with no day of rest and no annual leave.

The law pertaining to the oil industry provides for a 40-hour workweek, 30 days of annual leave, and sick leave. Laws establishing working conditions were not applied uniformly to foreign workers. The civil service law also prescribes additional working conditions for the public sector, which consisted almost entirely of citizen workers.

The government has issued occupational health and safety standards; however, compliance and enforcement appeared poor, especially with respect to unskilled foreign laborers. To decrease accident rates, the government periodically inspected enterprises to raise awareness among workers and employers and to ensure that they abided by safety rules, controlled the pollution resulting from certain dangerous industries, trained workers who used new machines in specialized institutes, and reported violations. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and legal protection existed for both citizen and foreign workers who filed complaints about such conditions. However, government attention to worker safety issues remained insufficient, resulting in poor training of inspectors, inadequate injury reports, and no link between insurance payments and accident reports.

The law provides that all outdoor work stop when the temperature rises above 50 degrees Celsius (120 Fahrenheit); however, there were allegations that the government's Meteorological Division falsified official readings to allow work to proceed. The Meteorological Division consistently denied these allegations. In the past recorded temperatures reached 120 degrees Fahrenheit, but work reportedly continued at many outdoor locations. On June 5, 200 MOSAL inspectors reportedly began enforcement of a noon to 4 p.m. ban on work in direct sunlight between June and August, regardless of temperature. Fines of \$342 (100 dinars) are levied on companies for every employee found working in the sun. Laborers reportedly worked in violation of the ban.

The law provides for employer-provided medical care and compensation to both citizen and foreign workers disabled by injury or disease due to job-related causes. Once a worker files a claim, the courts decide the amount of compensation, typically paid in a lump sum. Workers, especially noncitizens, had difficulty enforcing such decisions. The law also requires that employers provide periodic medical examinations for workers exposed to environmental hazards on the job, such as chemicals and asbestos. Adequate and affordable health care is a serious problem for many foreign workers. The best medicines and certain kinds of specialized treatment officially were reserved for citizens. Noncitizens must pay an annual, government-mandated medical coverage premium to the MOH, required to obtain residency, and additional user fees for medical care, medication, required tests, or specialized procedures. Many employers deducted the medical fees from employees' salaries.

Employers often exploited workers' willingness to accept substandard conditions. Noncitizen workers, especially less-skilled South Asian laborers, lived and worked much like indentured servants, were unaware of their legal rights, and generally lacked the means to pursue legal remedies. They faced contractual disputes, poor working conditions, and at times physical and sexual abuse (see sections 5 and 6.c.).

Most were in debt to their employers before they arrived in the country, and they had little choice but to accept the employer's conditions, even if they breached the contractual terms. It was common for wages to be withheld for a period of months or to be decreased substantially in violation of their labor contracts. Many foreign workers were forced to live in "housing camps," which generally were overcrowded and lacked adequate cooking and bathroom facilities. Laborers were housed 10 or more to a room in squalid conditions, a number without access to adequate running water. These workers were allowed off the camp compound only on company transport or by permission of the employer. Many foreign workers went heavily into debt and could not afford to return home.

Any foreign worker covered under the law, which excluded maritime workers and an estimated 450 thousand domestic servants, could submit a grievance to the Labor Office regardless of union status; however, such services were not utilized widely. The KTUF administered an Expatriate Labor Office, which was authorized to investigate complaints of foreign laborers and provide them with free legal advice. However, these services were not utilized widely. Any foreign worker could submit a grievance to the labor office regardless of union status.

The courts rule in favor of employees in an estimated 90 percent of the labor disputes they hear; however, no legal mechanism exists to enforce judgments. There is no compulsion for employers to obey court rulings, and workers often do not receive court-ordered compensation. Employers also reportedly used illegal methods to pressure foreign employees to drop cases against them, such as withholding their passports, encouraging police intimidation and brutality, threatening deportation, and filing criminal charges against them for fabricated crimes, such as theft.

The government implemented new measures designed to protect the welfare of workers. On April 29, the MOSAL implemented a 24-hour hot line for laborers to file complaints if their companies are more than 15 days delinquent in salary payments. The time period that recruitment agencies are responsible for resolving labor disputes involving domestic servants is six months. If problems continue, the sponsor or employer is responsible by law to resolve them. The MOI investigates and resolves labor disputes in cooperation with the laborers' representative embassies. Domestic labor department officers were assigned to liaise specifically with the Indian, Indonesian, Philippine, and Sri Lankan embassies on labor problems. The law requires companies to make a bank deposit for each expatriate worker hired, which the government could confiscate to reimburse employees for unpaid back-wages. The government reportedly compensated Bangladeshi workers by this method after their April 24 protest over unpaid back wages received widespread media coverage.

## LEBANON

Lebanon is a parliamentary republic of 4.5 million citizens in which the president is a Maronite Christian, the prime minister a Sunni Muslim, and the speaker of the chamber of deputies a Shi'a Muslim. President Emile Lahoud was elected in 1998 and his term was due to expire in November 2004; however, in September 2004, the Syrian regime pressured parliamentarians to pass a constitutional amendment that extended President Lahoud's term until November 2007. That coerced decision set off a chain of political events that led to massive demonstrations following former prime minister Rafiq al-Hariri's February 14 assassination, the eventual withdrawal of Syrian military forces from the country in April, parliamentary elections in May and June, and in July the first Lebanese government formed without Syrian control in nearly 30 years. The chamber of deputies (Majlis al-Nuwab) consists of 128 deputies, equally divided between Christian and Muslim representatives. According to international observers, the May-June elections for the chamber of deputies were considered generally free and fair, although most political observers considered the boundaries of the electoral districts to be unfair. The elections resulted in a new, pro-independence majority in the parliament opposed to Syrian interference in the country. That majority used Lebanon's constitutional process to select Fouad Siniora as prime minister in July, reflecting the growing support for Lebanese freedom and democracy.

Despite the end of the Syrian military occupation of Lebanon, some Syrian interference in the country continued. Palestinian and Lebanese militias, particularly the terrorist organization Hizballah, often acted as Syrian proxies and retained significant influence over parts of the country. UN Security Council (UNSC) resolutions 1559 and 1614 require the government to take effective control of all Lebanese territory and disarm militia groups operating in Lebanese territory. The government had begun by the end of the year taking steps to isolate and limit Palestinian arms;

however, citing the need for an internal dialogue, the government had not taken steps to disarm extra-legal armed groups or to disarm Hizballah.

There was significant improvement in some areas, but the government's overall human rights record remained problematic. The following human rights problems were reported:

- limitations on the right of citizens to peacefully change their government
- arbitrary or unlawful deprivation of life
- incidents of excessive use of force and torture prior to April
- poor prison conditions
- lengthy pretrial detention and long delays in trials
- lack of judicial independence
- infringement on citizens' privacy rights
- restriction on freedoms of speech, press, and assembly prior to April
- targeting of journalists
- limitations on freedom of movement for unregistered refugees
- government corruption and lack of transparency
- domestic violence and societal discrimination against women
- violence against children
- widespread, systematic discrimination against Palestinians
- child labor

Throughout the year but particularly after April when Syrian military forces departed the country following a 29-year period of control, the country made significant progress with respect to human rights under a democratically elected parliament and a reform-oriented government. With the end of the Syrian occupation, press and media self-censorship decreased considerably, with most political taboos broken by year's end. Government attempts to restrict freedom of assembly during mass demonstrations also dissipated after the first few months of the year.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—After the April Syrian withdrawal, there were no reports of arbitrary or unlawful deprivation of life by the government or its agents. However, prior to April, four government intelligence and security officials, working in conjunction with the Syrian government, were reportedly implicated in high-profile arbitrary and unlawful deprivation of life. These four security chiefs were arrested and remained imprisoned at year's end after being declared suspects in the al-Hariri assassination by the UN International Independent Investigation Commission (UNIIC).

On February 14, a massive explosion in central Beirut killed 22 persons: former prime minister Rafiq al-Hariri, members of his security detail, and innocent bystanders. Also as a result of the blast, former minister Bassel Fulaian suffered severe burns and died on April 18, and another 220 people were injured.

On February 18, at the request of UN Secretary General Kofi Annan, a fact-finding mission headed by Peter Fitzgerald, a deputy commissioner of the Irish police, was sent to the country to gather facts about the assassination. On March 24, Fitzgerald submitted his report recommending a broad follow-up investigation.

On April 7, the Security Council passed resolution 1595 calling for establishment of the UNIIC. German prosecutor Detlev Mehlis assumed his duties as Chief Investigator on June 15, and after four months' work, Judge Mehlis reported on October 19 to the UN secretary general. The report concluded that although more investigative work was needed, it would be difficult to envisage a scenario whereby such a complex assassination plot could have been carried out without the knowledge of the Syrian and Lebanese intelligence services.

Based on the initial recommendations of Judge Mehlis, Lebanese judicial authorities issued arrest warrants for four senior generals who had been closely associated with the Syrian occupation of the country. The Lebanese judge in charge of investigating the case formally charged the security figures on four counts: premeditated murder, premeditated attempt of murder, terrorist activities, and possession of weapons and explosives. In October authorities arrested six additional Lebanese suspects. At year's end the UN investigation was continuing under the direction of a new chief investigator, Serge Brammertz, who had previously served as the deputy prosecutor at the International Criminal Court. The UNIIC, under the leadership of Brammertz, was also authorized by the UNSC to provide technical assist-

ance to the Lebanese judiciary in its continuing investigation of other acts of political violence that had been committed in the country since October 2004. The UNSC also requested that the UN consult with the government on the extent of international assistance needed for the eventual trial of the al-Hariri suspects.

The assassination of al-Hariri was followed by a number of terrorist attacks on prodemocracy politicians and journalists, as well as a number of residential and commercial centers. While no arrests were made in these cases, it was widely believed that these attacks were carried out by elements directed by the Syrian regime.

Numerous bomb attacks killed and injured political figures, as well as ordinary citizens, during the year. Investigations continued at year's end, but only in the al-Hariri case had any arrests been made. For example on June 2, Samir Kassir, a prominent anti-Syrian journalist, was killed in Beirut when a bomb placed under his car seat exploded. Kassir was a founding member of the Democratic Left Movement and played an important role in organizing the massive March 14 demonstration in Beirut that called for the withdrawal of Syrian troops from Lebanon, as well as for putting an end to Syrian control of the country's security services.

On June 21, former head of the Lebanese Communist Party George Hawi, was killed by a bomb that destroyed his car in West Beirut.

On July 12, a car bomb blasted the motorcade of Lebanon's defense minister and incoming deputy prime minister, Elias Murr, injuring him and killing one person. On September 16, an explosion in Jeitawi, Beirut killed one person and injured 23 others.

On September 25, an explosive device planted under the car of proreform journalist May Chidiac seriously injured her (see section 2.a.).

On December 12, the popular prodemocracy journalist and politician Gibran Tueni was assassinated, along with a bodyguard and a bystander, in a massive car bomb explosion as he was being driven to work. The outpouring of national grief in this instance led to a series of events that, by year's end, resulted in a political stalemate, with Hizballah and Amal ministers boycotting the Siniora government.

There were no developments in the July 2004 car bombing that killed Hizballah member Ghalib Awwali in the southern suburbs of Beirut.

There were no new developments in the 2003 car bombing that killed Hizballah member Ali Hussein Saleh in Beirut's southern suburbs. Some government officials accused Israel of carrying out the killing.

During the year violent cross-border attacks by Hizballah, Palestinian, and other unidentified armed elements against the Israel Defense Forces (IDF) continued.

With the departure of the Syrian troops in late April, the government began an investigation into the October 2004 assassination attempt against Druze politician Marwan Hamadeh. No arrests had been made by year's end.

The country's landmine and unexploded ordinance (UXO) problem was estimated by the National Demining Office at more than 550 thousand landmines and UXO throughout the country, with as many as 400 thousand of these in the former Israeli-occupied security zone in the south. From the late 1990s to the end of the year, approximately 150 thousand landmines and 80 thousand UXO had been destroyed. One million square meters of land were cleared during the year, much of it returned to productive use. According to the National Demining Office, there have been 2,813 landmine victims in the country since 1990. During the year there were 20 landmine victims, 2 of whom were deminers. Foreign governments continued to support these demining efforts.

On December 3, security forces discovered a mass grave at the site of a former Syrian intelligence headquarters in the town of Anjar. More than 20 bodies were found. In addition to the grave in Anjar, remains of Lebanese soldiers were also discovered in another mass grave in November at al-Yarze, next to the Ministry of Defense.

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

In January 2004 Hizballah and Israel carried out the first phase of a prisoner exchange involving 21 Lebanese civilian prisoners, the remains of 59 Hizballah fighters, the remains of 3 Israeli soldiers and [released] IDF reservist Elhanan Tannenbaum. A second phase, a promised Hizballah investigation into the fate of Israeli airman Ron Arad and the release of additional Lebanese prisoners by Israel, had not materialized at year's end.

The government had not disclosed the findings of a 2000 report investigating cases of disappearance during the 1975–89 civil war. Beginning in April, hundreds of friends and relatives of disappeared persons participated in a sit-in in front of UN offices in the country, calling on the UN Security Council to establish an international commission of inquiry into the cases of the disappeared. In August the gov-



ernment appointed a security/judicial committee to follow up with Syrian authorities on the cases of those Lebanese believed to have been detained in Syrian jails.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law does not specifically prohibit torture, and security forces abused detainees and in some instances used torture. Human rights groups, including Amnesty International and Human Rights Watch, reported that torture was a common practice.

During the period of Syrian control prior to April, former detainees at the Lebanese Ministry of Defense Detention Center and in Syrian jails stated that they were routinely tortured during interrogation. Methods of torture frequently included severe beating, food and sleep deprivation, and hanging by the wrists which were tied behind the back.

In September 2004 Ismail al-Khatib died in custody a week after being arrested as a suspected leader of al-Qa'ida. The government coroner reported al-Khatib, who was 31 years old, died of a massive heart attack, but speculation attributed his death to torture. An independent investigation was undertaken by local human rights organizations, but no findings had been released by year's end.

The government acknowledged that violent abuse of detainees usually occurred during preliminary investigations conducted at police stations or military installations, in which suspects were interrogated without an attorney. Such abuse occurred despite national laws that prevent judges from accepting confessions extracted under duress.

In its October report, the UNHRC investigation of the assassination of former prime minister Rafiq al-Hariri noted that some unidentified security personnel had abused witnesses in the aftermath of al-Hariri's assassination.

Abuses also occurred in areas outside the government's control, including in Palestinian refugee camps. During the year there were reports that members of the various groups that controlled specific camps detained their Palestinian rivals (see section 1.d.). Rival groups, such as Fatah and Asbat al-Nur, regularly clashed over territorial control in the various camps, sometimes leading to exchanges of gunfire and the detention of rival members.

*Prison and Detention Center Conditions.*—Prison conditions were poor and did not meet minimum international standards. Prisons were overcrowded, and sanitary conditions in the women's prison, in particular, were very poor. There were no serious threats to health, but indirect threats were noted, such as physical and mental stress; the latter was especially noteworthy in Yarze prison, southeast of Beirut. The government did not consider prison reform a high priority. The number of inmates was estimated to be five thousand, of whom one third had yet to be tried or convicted. The government made a modest effort to rehabilitate some inmates through education and training programs.

Although there was some effort to keep pretrial detainees separate from convicted prisoners, overcrowding often prevented such separation. The government held security detainees and prisoners in regular prisons. The four senior security officials arrested in the al-Hariri investigation were initially held in substandard conditions in the facilities of the Internal Security Forces, but after complaints were filed by their families and inquiries made by diplomatic missions, these prisoners were transferred to regular facilities.

The police institution in charge of border posts and internal security, the Surete General (SG), operated a detention facility for detainees, mostly Egyptians and Sri Lankans, pending deportation. Their detention was supposed to be for one to two months, pending the regularization of their status. However, some persons, primarily asylum seekers, were detained for more than a year and eventually deported.

Unlike in previous years, the government permitted independent monitoring of prison conditions by local and international human rights groups and the International Committee of the Red Cross (ICRC).

*d. Arbitrary Arrest or Detention.*—Although the law requires judicial warrants before arrests, except in immediate pursuit situations, the government arbitrarily arrested and detained persons.

*Role of the Police and Security Apparatus.*—The security forces consist of the Lebanese Armed Forces (LAF) under the Ministry of Defense, which may arrest and detain suspects on national security grounds; the Internal Security Forces (ISF) under the Ministry of the Interior (MOI), which enforce laws, conduct searches and arrests, and refer cases to the judiciary; and the State Security Apparatus, which reports to the prime minister and the SG under the MOI, both of which collect information on groups deemed a possible threat to state security.

In April Syria formally withdrew its approximately 15 thousand troops from the country. Syrian sympathizers and intelligence agents continued to exercise some influence in the country.

During the uncertain times preceding Syrian withdrawal, and in the months thereafter, the security services demonstrated respect for the rights of antigovernment and proindependence demonstrators in Beirut. These security forces nonetheless committed numerous serious human rights abuses, sometimes acting independently and other times on instruction of senior government officials. Since October 2004, there were 15 politically motivated violent incidents, including assassinations, assassination attempts and fatal bombings (see section 1.a.). These incidents were under investigation, although it was generally believed that either Syria or its allies in the country were responsible.

*Arrest and Detention.*—Military intelligence personnel made arrests without warrants in cases involving military personnel and those involving espionage, treason, weapons possession, and draft evasion (see Section 1.e.). The 2004 report by the Parliamentary Commission for Human Rights estimated that of the approximately five thousand persons being held in prison, one third had not been convicted of crime.

The law provides the right to a lawyer, to a medical examination, and referral to a prosecutor within 48 hours of arrest. If a suspect is held more than 48 hours without formal charges, the arrest is considered arbitrary and the detainee must be released. In such cases officials responsible for the prolonged arrest may be prosecuted on charges of depriving personal freedom. A suspect caught in hot pursuit must be referred to an examining judge, who decides whether to issue an indictment or order the release of the suspect. Bail is available in all cases regardless of the charges. Many provisions of the code were not observed in practice.

While there was no state-funded public defender's office, the bar association operated an office for those who could not afford a lawyer, and a lawyer was often provided for indigent defendants.

Security forces continued the practice of arbitrary arrest and detention. On several occasions during the year, security forces detained and arrested citizens on grounds of national security.

There were credible reports that security force personnel detained individuals on the instruction of Syrian intelligence agencies, a situation that was essentially eliminated with the departure of the Syrian forces in April.

Protesters were also arbitrarily detained and arrested (see section 2.b.). Since the withdrawal of Syrian forces there appears to be no indication that the government detained, interrogated, or harassed journalists (see Section 2.a.).

Palestinian refugees were subject to arrest, detention, and harassment by state security forces and rival Palestinian factions. For example Palestinian refugees living in camps were not allowed for most of the year to bring in construction material to repair damaged houses. Security services used this circumstance as leverage to recruit informers and buy their allegiance.

Unlike in previous years, there were no allegations that the government transferred citizens to Syria. Human rights activists believed that there were numerous Lebanese, Palestinians, and Jordanians in prolonged and often secret detention in Syria. According to credible reports, Syrian forces operating in the country carried out searches, arrests, and detentions of citizens outside any legal framework, until their departure from the country in late April.

*e. Denial of Fair Public Trial.*—While the constitution provides for an independent judiciary, in practice the judiciary was subject to political pressure, particularly in the appointments of key prosecutors and investigating magistrates. With the support of the UNHCR, however, the judiciary began judicial proceedings against once-powerful security and intelligence chiefs who had cooperated with Syria's occupation. The law provides for a fair public trial and for an independent judiciary; however, influential politicians as well as Syrian and Lebanese intelligence officers at times intervened and protected their supporters from prosecution. The judiciary still suffers from intimidation generated by a series of unresolved political assassinations committed by unidentified assailants beginning in October 2004. Despite this intimidation, the judiciary took steps toward independence, including the incarceration of previously powerful security and intelligence officers, continuing investigations into other acts of political violence, and close cooperation with the UNHCR.

The judicial system consists of a Constitutional Council to determine the constitutionality of newly adopted laws upon the request of 10 members of parliament; the regular civilian courts; the Military Court, which tries cases involving military personnel and civilians in security-related issues; and the Judicial Council, which tries national security cases. Additionally, there are tribunals of the various religious affiliations, which adjudicate matters of personal status, including marriage, divorce, inheritance, and child custody (see section 5). The religious Shari'a courts are often used by both the Shi'a and Sunni religious communities to determine family legal

matters. There are also religious courts in the various Christian sects, Druze, and Jewish communities, but these tribunals are restricted to family legal matters.

The aftermath of the February 14 assassination of Rafiq al-Hariri led to significant progress in eliminating political and security influence over the judiciary. Civil rights groups were encouraged by the September appointment of respected, qualified judges to the Higher Judicial Council, which has primary responsibility for disciplining judges and ensuring judicial independence.

The judicial council is a permanent tribunal of five senior judges that adjudicates threats to national security. Upon the recommendation of the minister of justice, the cabinet decides whether to try a case before this tribunal. During the year the cabinet referred several high-profile cases to this tribunal, including the assassination of former prime minister Rafiq al-Hariri and the October 2004 attempt on the life of then Telecommunications Minister Marwan Hamadeh. Verdicts from this tribunal may not be appealed.

The Ministry of Justice appoints all other judges based on the sectarian affiliation of the prospective judge. A shortage of qualified judges impeded efforts to adjudicate cases backlogged during the years of internal conflict. Trial delays were aggravated by the government's inability to conduct investigations in areas outside of its control, specifically in the Hizballah-controlled areas in the south and in the 12 Palestinian-controlled refugee camps throughout the country.

*Trial Procedures.*—There is no trial by jury; trials were generally public, but judges had the discretion to order a closed court session. Defendants have the right to be present at trial and the right of timely consultation with an attorney. Defendants have the right to confront or question witnesses against them, but they must do so through the court panel, which decides whether or not to permit the defendant's question. Defendants and their attorneys have access to government-held evidence relevant to their cases and the right of appeal. These rights generally were observed.

Defendants on trial for security cases, which were heard before the judicial council, have the same procedural rights as other defendants; however, there was no right to appeal in such cases. As in civil cases, trials for security cases were generally public; however, judges had the discretion to order a closed court session.

The Military Court has jurisdiction over cases involving the military as well as those involving civilians in espionage, treason, weapons possession, and draft evasion cases. Civilians may be tried for security issues, and military personnel may be tried for civil issues. The Military Court has two tribunals—the permanent tribunal and the cassation tribunal—the latter hears appeals from the former. A civilian judge chairs the higher court. Defendants on trial under the military tribunal have the same procedural rights as defendants in ordinary courts.

Unlike in previous years, there were no reports that Hizballah subjected former Southern Lebanese Army (SLA) soldiers who returned to their villages to harassment.

In cases stemming from the civil war, the country's courts postponed action for years related to 77 military personnel and civilians who were associated with former Christian militia leader Samir Ja'ja and former Lebanese Armed Forces Commander Michel Aoun. In October the investigative judge dropped all charges against these individuals, including defamation charges against Nadim Lteif and Hikmat Deeb. With legal proceedings against him cancelled, Michel Aoun returned to the country in May after a 15-year exile in Paris. Samir Ja'ja was released from prison in July as part of a parliamentary amnesty bill.

Palestinian groups in refugee camps operated an autonomous and arbitrary system of justice not under the control of the state. For example, local popular committees in the camps attempted to solve disputes using tribal methods of reconciliation. If the case involved a killing, the committees occasionally used their good offices to hand over the perpetrator to Lebanese authorities for trial.

*Political Prisoners.*—There were no reports of political prisoners. However, throughout the year, there were reports of political detainees (see section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—While the law prohibits such actions, authorities frequently interfered with the privacy of persons regarded as enemies of the government. The law requires that prosecutors obtain warrants before entering homes, except when the security forces are in close pursuit of armed attackers; these rights were generally observed.

The Army Intelligence Service monitored the movements and activities of members of opposition groups (see section 2.b.). Despite a law regulating eavesdropping, security services continued to eavesdrop without prior authorization.

Militias and non-Lebanese forces operating outside the area of central government authority frequently violated citizens' privacy rights. Various factions also used in-

former networks and the monitoring of telephones to obtain information regarding their perceived adversaries.

Under the direction of the Siniora cabinet, the government began to take steps to roll back the violation of privacy rights. On September 15, the government passed the two required implementation decrees. The first decree calls for creating an independent judicial committee chaired by the chairman of the judicial council and assisted by two other judges as well as a judge from the audit court. This committee would receive complaints from parties who believe that their phones are tapped, and the committee has three days to resolve the issue. The committee would also give permission for security services to monitor the telephones of criminals. The committee members were appointed by the Siniora government on December 16 and were scheduled to commence their duties in 2006.

The second decree concerns the operations of security intelligence and calls for the creation of a centralized unit that would have supervision over tapping phones related to military personnel only. The committee would report to the minister of interior and the prime minister.

All tapes of recorded conversations would be destroyed after three months unless they were used in legal cases brought before the courts. The ministry would review the procedure regularly and eventually bring all phone tapping into this centralized unit. This unit was scheduled to commence operations in early 2006.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the government limited the exercise of these rights prior to the withdrawal of Syrian military forces in April. Syrian security services in the country intimidated journalists. Journalists were victims of violence during the year. The reduction of Syrian interference lessened the desire and ability of authorities to censor the press; however, journalists continued to exercise self-censorship, although to a far lesser degree than in previous years. The killings of prominent journalists and the failure to apprehend those responsible created a climate of intimidation.

The government retained and utilized several legal mechanisms at its disposal to control freedom of expression. The SG was authorized to censor foreign magazines and nonperiodical works, including plays, books, and films before they were distributed. The law prohibits attacks on the dignity of the head of state or foreign leaders. The government may prosecute offending journalists and publications in the Publications Court. The 1991 security agreement between the government and Syria, still in effect, contains a provision that prohibits the publication of any information deemed harmful to the security of either state. The withdrawal of Syrian troops and a decrease in Syrian influence encouraged Lebanese journalists to be open in their criticism of Syrian and Lebanese authorities alike.

Dozens of newspapers and hundreds of periodicals were published throughout the country that were financed by and reflected the views of various local, sectarian, and foreign interest groups.

In April the editor-in-chief of *Ad-Diyar* newspaper, Charles Ayoub, was charged with defaming President Lahoud. If convicted, Ayoub could serve up to 2 years' imprisonment or/and pay a fine up to approximately \$65 thousand (97.7 million pounds). Public interest groups pressured the government to drop the charges, and the repeated postponements indicated this option was being considered. The case was still pending in the investigative phase at year's end.

In June pro-Hariri *Al-Mustaqbal* newspaper reporter and Future TV anchor Zahi Wehbe was also charged with defaming the president after writing an article against him. The case was still pending in court at year's end.

Following the departure of Syrian troops, the government did not restrict radio and television broadcasts. In August parliament overwhelmingly passed a bill ending a nearly three-year ban against Murr Television (MTV). However, the Publication Appeals Court ruled on October 21 that MTV should cease its broadcasts because the station had harmed relations with Syria and the dignity of the head of state, as well as violated the electoral law. In November, the station won a decision on appeal and recommenced its broadcasting services.

There were 7 television stations and 33 radio stations. The government owned one television and one radio station; the remaining stations were owned privately. Inexpensive satellite television was widely available.

There were a growing number of attacks on journalists during the year by unidentified, antidemocratic forces (see section 1.a.). Samir Kassir, a columnist for the Arabic-language daily *Al-Nahar* and a correspondent for the French television station TV5, was killed by a car bomb on June 2. May Chidiac, the star presenter of the Lebanese Broadcasting Corp (LBC), was critically injured in a bomb attack on her car on September 25 in northeastern Beirut. On December 12, a car bomb in a Bei-

rut suburb killed Gibran Tuani, the CEO of *An-Nahar* and a member of parliament. Despite an accelerating investigation by the judiciary, assisted by the UNHCR, those responsible were not identified by year's end.

Judicial cases launched in previous years against journalists were not pursued during the year. There were no developments in the 2003 defamation case against journalist Adonis Akra.

The government did not restrict Internet access, and it was used widely. Internet usage and access was reportedly restricted in Hizballah-controlled areas in south Lebanon and in the Palestinian-controlled refugee camps.

The government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly; however, the government restricted this right. The prior approval of rallies by the MOI was required, and groups opposing government positions sometimes were denied permits.

The assassination of al-Hariri sparked a series of protests against Syria. Following the assassination in February, large demonstrations at al-Hariri's funeral and in subsequent weeks were held in Beirut calling for Syria's withdrawal from the country. On March 8, Hizballah and a coalition of pro-Syrian parties held a rally attended by a crowd estimated by most observers to be between approximately 500 thousand to 700 thousand. In response, on March 14, to coincide with the one-month anniversary of the assassination of al-Hariri, approximately 1.2 million protesters held the largest rally in the country's history to intensify pressure on Syria to immediately withdraw its troops from the country.

Unlike in previous years, military personnel did not use force to disperse protesters on March 14, and according to observers, defied orders and allowed the demonstrations to proceed peacefully.

In early April, army troops and riot police used batons against irate families and relatives of Lebanese prisoners held in Syria. Protesters were clubbed and, in some photographed examples, troops used rifle butts to subdue the demonstrators. While no one was arrested, the clash touched off popular criticism, prompting the speaker of parliament to call for leniency with the protesters.

Unlike in previous years, politicians opposed to Syria's occupation of the country were allowed to assemble freely in public.

*Freedom of Association.*—The law provides for freedom of association, and the government did not interfere with most organizations; however, it imposed limits on this right. The law requires every new organization to submit a notification of formation to the MOI, which issues a receipt. In addition to what is provided by law, the MOI imposed on organizations further restrictions and requirements that were not enforced consistently. The ministry in some cases sent notification of formation papers to the security forces, which then conducted inquiries regarding an organization's founding members. The ministry may use the results in deciding whether to approve the group. The ministry at times withheld the receipt, essentially transforming a notification procedure into an approval process.

In August the government changed the policy such that the formation of any association no longer required licensing. According to civil rights organizations, the time needed for registration had in some cases dropped to as little as 10 working days.

Organizations must invite MOI representatives to any general assembly where votes are held for by-law amendments or elections are held for positions on the board of directors. The ministry also required every association to obtain its approval for any change in by-laws; failure to do so could result in the dissolution of the association.

The cabinet must license all political parties. The government scrutinized requests to establish political movements or parties and to some extent monitored their activities. The Army Intelligence Service monitored the movements and activities of members of some opposition groups (see section 1.f.).

Under popular pressure, following the April withdrawal of Syrian military and security forces, the government ceased to monitor groups critical of Syrian policies, and the government stopped harassing members of such groups.

*c. Freedom of Religion.*—The law provides for freedom of religion and the government respected this right with some limitations. The law does not provide for freedom to have no religion. Discrimination based on religion is built into the system of government. The government subsidized all religions and appointed and paid the salaries of Muslim and Druze judges.

Although there is no state religion, politics were based on the principle of religious representation, which has been applied to nearly every aspect of public life.

A group seeking official recognition must submit its principles for government review to ensure that such principles did not contradict "popular values" and the con-

stitution. The group must ensure the number of its adherents is sufficient to maintain its continuity.

Alternatively, religious groups may apply for recognition through existing religious groups. Official recognition conveys certain benefits, such as tax-exempt status and the right to apply the recognized religion's codes to personal status matters. Each recognized religious group has its own courts for family law matters, such as marriage, divorce, child custody, and inheritance (see section 1.e.). State recognition is not a legal requirement for religious worship or practice. For example, although Baha'is, Buddhists, Hindus, and some evangelical denominations were not recognized officially, they were allowed to practice their faith without government interference; however, their marriages, divorces, and inheritances in the country were not recognized under the law.

Protestant evangelical churches are required to register with the Evangelical Synod, which represents those churches to the government. Representatives of some churches complained that the Synod has refused to accept new members since 1975, thereby preventing their clergy from administering to adherents in accordance with their beliefs. The last group registered was the Coptic Church in 1997. The Pentecostal Church applied for recognition from the Evangelical Sect, but the leadership of the Evangelical Sect, in contravention of the law, refused to register new groups. The Pentecostal Church pursued recourse through the MOI; however, at year's end, it had not been registered.

The unwritten "National Pact" of 1943 stipulates that the president, the prime minister, and the speaker of parliament be a Maronite Christian, a Sunni Muslim, and a Shi'a Muslim, respectively. The 1989 Taif Accord, which ended the country's 15-year civil war, reaffirmed this arrangement, but also codified increased Muslim representation in parliament and reduced the power of the Maronite president. The LAF, through universal conscription and an emphasis on professionalism, significantly reduced the role of confessionalism (or religious sectarianism) in the armed forces. Christians and Muslims were represented equally in the parliament. Seats in the parliament, cabinet, and desirable posts in the civil service were distributed proportionally among the 18 recognized groups (see section 3).

The government required that religious affiliation be indicated on civil status registry and on national identity cards, but not on passports.

Many family and personal status laws discriminated against women. For example Sunni inheritance law provides a son twice the inheritance of a daughter. Although Muslim men may divorce easily, Muslim women may do so only with the concurrence of their husbands. The law provides that only religious authorities may perform marriages; however, civil marriage ceremonies performed outside the country were recognized by the government.

There were no legal barriers to proselytizing; however, traditional attitudes and edicts of the clerical establishment strongly discouraged such activity. Religious authorities appointed the clerical establishments to which they are affiliated.

Although the law stipulates that any one who "blasphemes God publicly" may face imprisonment for up to one year, no prosecutions were reported under this law during the year.

*Societal Abuses and Discrimination.*—Sectarian rhetoric was intense, and five bombs detonated in predominantly Christian neighborhoods in the run-up to parliamentary elections. Leaders of all religious denominations condemned the bombings.

The Arab-Israeli conflict and Israel's past occupation of the southern part of the country nurtured a strong antipathy toward Israelis, and Lebanese media often reflected that sentiment. Hizballah, through its media outlets, regularly directed strong rhetoric against Israel and its Jewish population and commonly characterized events in the region as part of a "Zionist conspiracy."

Writing a new curriculum for the public schools was one of the requirements included in the Taif Accord of 1989. The new curriculum, which began to be implemented in 2004, included antibias and tolerance education. There is no specific reference to or designation of crimes as hate crimes in legislation.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them with some limitations. The law prohibits direct travel to Israel. Until their withdrawal from Lebanon on April 26, Syrian troops maintained checkpoints throughout much of the country. LAF troops also maintained similar checkpoints. All men between 18 and 21 years of age are required to obtain a travel authorization document from the government before leaving the country.

The law prohibits forced exile and it was not used.

There were no legal restrictions on the right of citizens to return to the country. The government encouraged the return to their homes of over 600 thousand persons internally displaced during the civil war. Although some persons began to reclaim homes abandoned or damaged during the war, the vast majority had not attempted to reclaim and rebuild their property due to concerns about physical security and a hazardous social and economic situation in some areas.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. Although the law does not provide for granting refugee status, the government has found mechanisms to provide assistance. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status to a limited number of Sudanese. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 protocol to approximately three thousand persons during the year. In 2003 the SG signed an agreement with the UNHCR recognizing and granting protection to non-Palestinian refugees, providing temporary relief for those seeking determination of refugee status. Those wishing to claim refugee status do so within two months of arriving in the country. The SG issues residence permits, valid for three months, during which time UNHCR must make a refugee status determination. The SG extended residency permits for up to 12 months for those accorded refugee status by UNHCR. The government granted admission and temporary (six months) refuge to asylum seekers, but not permanent asylum.

Most refugees were Palestinians. The UN Relief and Works Agency (UNRWA) reported that the number of Palestinian refugees in the country registered with the UNRWA was approximately 402 thousand. This figure, which represented refugees who arrived in 1948 and their descendants, was presumed to include many thousands who resided outside of the country. Credible sources estimated that the actual number in the country was between 250 thousand and 300 thousand. According to SG records, the number of registered Palestinian refugees was approximately 427 thousand. Most Palestinian refugees were unable to obtain citizenship and were subject to governmental and societal discrimination, particularly in the area of employment; however, Palestinian women who married Lebanese men could obtain citizenship (see section 5). In 2003 the State Consultative Council invalidated the 1994 naturalization decree in which several thousand Palestinian nationals were naturalized. As a result, approximately four thousand cases, some of which are families including several siblings, may lose their Lebanese citizenship. The council referred the issue to the MOI to review the files and decide their legal status. The ministry continued to review the files, but it had not issued a decision by year's end.

The government issued travel documents to Palestinian refugees to enable them to travel and work abroad. The government did not issue visitors' visas to Jordanian nationals who were born in the country and were of Palestinian origin.

On several occasions, Hizballah operatives interfered with the freedom of movement of UN Interim Forces in Lebanon (UNIFIL) personnel. According to the UN secretary general's 2004 report, no action had been taken against the 15 Hizballah operatives who injured 3 UNIFIL observers in 2002, despite government assurances that the perpetrators would be arrested and brought to trial.

According to the UNHCR, there were 2,541 non-Palestinian refugees, primarily Iraqis, Somalis, and Sudanese, registered with the UN and residing in the country. However, this number did not include a substantial number of refugees from Iraq who entered the country illegally in search of jobs, education, and security. The UNHCR commissioned a study during the year to estimate the illegal non-Palestinian refugee population, and as a result of its findings, estimated approximately 12 thousand to 20 thousand non-Palestinian refugees in the country. Most lived on the fringes of the economy and were vulnerable to exploitation and immediate expulsion by authorities. The SG detained approximately 200 Iraqi refugees during the year for return to Iraq. The UNHCR was granted access to them.

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

The law provides citizens the right to change their government in periodic, free, and fair elections; however, lack of control over parts of the country, defects in the electoral process, and corruption in public office significantly restricted this right.

*Elections and Political Participation.*—On February 28, Prime Minister Omar Karami submitted his cabinet's resignation under significant public pressure, in-

cluding massive street demonstrations. In a constitutional consultative process supported by politicians across the political spectrum, Najib Mikati was selected as interim prime minister to replace Karami. The Mikati cabinet, composed of technocrats, adopted as its primary objective the overseeing of legislative elections within the constitutional timeframe. With the departure of the Syrian troops and closure of Syrian intelligence offices in April, the major constraints on the ability of Lebanese citizens to change their government were removed.

The law provides that elections for the parliament must be held every four years. In turn the parliament elects the president every six years. The president and the parliament nominate the prime minister, who, with the president, chooses the cabinet. According to the unwritten National Pact of 1943, the president must be a Maronite Christian, the prime minister a Sunni Muslim, and the speaker of parliament a Shi'a Muslim (see section 2.c.).

During May and June parliamentary elections were held for the first time in three decades without Syrian interference. International observers were invited to monitor these elections and reported fewer incidents of voter fraud and tampering with ballots than previous elections. According to the EU monitoring team, the elections were well managed and took place in a peaceful manner within the existing framework for elections. The process was, however, flawed, particularly because the elections were carried out according to the 2000 electoral law, which reflected Syrian government influence.

During September 2004, amid evidence of heavy Syrian manipulation and coercion, parliament voted for a constitutional amendment extending the term of President Lahoud for three years. Many citizens considered this amendment to violate the constitution.

There are four major political parties and numerous smaller ones. The parliamentary majority party is the Future Movement, led by Saad al-Hariri. It was predominantly a Sunni party, but there were many members who belonged to the Christian Maronite community. The Progressive Socialist Party, led by Walid Jumblatt, predominantly represented Druze interests and allied itself with the Future Movement. The Free Patriotic Movement, led by Michel Aoun, represented a significant portion of the Christian community, but the party's leadership decided to remain outside the cabinet, despite their sizable representation in the parliament. Two smaller Christian parties were the Lebanese Forces, led by Samir Ja'ja', and the Phalange party, led by former president Amin Gemeyal. The largest party representing the Shi'a community was Hizballah, led by Hassan Nasrallah. A smaller Shi'a party, the Amal, was led by Speaker of Parliament Nabih Berri. A number of smaller parties existed, or were in the process of forming, but the larger, sectarian-based parties still maintained the greatest influence in the country's political system.

There were significant cultural barriers to women's participation in politics. Prior to October, no woman had held a cabinet position; however, at year's end there was one woman in the cabinet. In the parliamentary elections, women's representation increased from three members to five members. Since the political system is based on confessionalism, all parliamentary seats are primarily allotted on a sectarian basis. The smallest recognized confessions are allotted at least one seat in parliament.

Palestinian refugees had no political rights (see section 5). An estimated 17 Palestinian factions operated in the country and were generally organized around prominent individuals. Most Palestinians lived in refugee camps controlled by one or more factions. Refugee leaders were not elected, but there were "popular committees" that met regularly with UNRWA and visitors.

*Government Corruption and Transparency.*—There was a widespread perception of corruption at all levels of government. By year's end parliament had begun to hold sessions on public accountability and transparency. The government had not adopted a comprehensive approach or undertaken broad efforts to end corruption.

There are no laws regarding public access to government documents, either allowing or denying access. In practice the government did not respond to requests.

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

A number of local and international human rights groups generally operated freely without overt government restriction, including the Lebanese Association for Human Rights, the Foundation for Human and Humanitarian Rights-Lebanon, the National Association for the Rights of the Disabled, ICRC, and Amnesty International, investigating and publishing their findings. Government officials generally were cooperative, except when some of these groups sought to publicize the alleged detention in Syria of hundreds of Lebanese citizens. The bar association and other private organizations regularly held public events that included discussions of



human rights issues. Some human rights groups reported harassment and intimidation by the government or Hizballah.

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

The law provides for equality among all citizens; however, in practice, some aspects of the law and traditional beliefs discriminated against women. Although the law reserves a percentage of private sector and government jobs to persons with disabilities, there were few accommodations made for them. Discrimination based on race, language, or social status is illegal and was not widespread among citizens; however, foreign domestic servants often were mistreated. Foreign domestic servants sometimes suffered physical abuse, had pay withheld or unfairly reduced, or were forced to remain locked within their employer's home for the duration of their contracts.

*Women.*—The law does not specifically prohibit domestic violence, and domestic violence against women was a problem. There were no authoritative statistics on the extent of spousal abuse; however, most experts noted that it was a problem. Despite a law prohibiting battery with a maximum sentence of three years in prison for those convicted, some religious courts legally may require a battered wife to return to her home in spite of physical abuse. Women were sometimes compelled to remain in abusive marriages because of economic, social, and family pressures.

The government had no separate program to provide medical assistance to battered women; however, it provided legal assistance to victims who could not afford it regardless of their gender. In most cases police ignored complaints submitted by battered or abused women. A local NGO, the Lebanese Council to Resist Violence against Women, worked actively to reduce violence against women by offering counseling and legal aid and raising awareness about domestic violence.

Foreign domestic servants often were mistreated, abused, and in some cases, raped or placed in slavery-like conditions (see section 5, Trafficking). Asian and African female workers had no practical legal recourse available to them because of their low status, isolation from society, and because labor laws did not protect them (see section 6.e.). Because of such abuse, the government prohibited foreign women from working if they were from countries that did not have diplomatic representation in the country.

The law prohibits rape, and the minimum prison sentence for a person convicted of rape is five years in prison. The minimum sentence for a person convicted of raping a minor is seven years. The law was effectively enforced.

The legal system was discriminatory in its handling of "honor crimes." According to the Penal Code, a man who kills his wife or other female relative may receive a reduced sentence if he demonstrates that he committed the crime in response to a socially unacceptable sexual relationship conducted by the victim. For example while the Penal Code stipulates that murder is punishable by either a life sentence or the death penalty, if a defendant can prove it was an honor crime, the sentence is commuted to one to seven years' imprisonment. While several honor crimes were reported in the media, no person was convicted in a case legally considered an honor crime.

Although the law on prostitution requires that brothels be licensed and that sex workers be tested regularly for disease, government policy has been to stop issuing new licenses for brothels in an attempt to gradually eliminate legal prostitution in the country. In practice most prostitution was unlicensed and illegal. The SG reported issuing 4,405 visas in 2004 to eastern European women to work in adult clubs as "artistes." Although prostitution is illegal, virtually all of these women engaged in voluntary prostitution with the implicit consent of the government. The country was a destination for trafficked persons, primarily women (see section 5, Trafficking).

The law prohibits sexual harassment; however, it was a widespread problem, and the law was not effectively enforced. Social pressure against women pursuing careers was strong in some parts of society. Men sometimes exercised considerable control over female relatives, restricting their activities outside of the home or their contact with friends and relatives. Women may own property, but often ceded control of it to male relatives for cultural reasons and because of family pressure.

The law provides for equal pay for equal work for men and women, but in the private sector there was some discrimination regarding the provision of benefits.

Only men may confer citizenship on their spouses and children. Accordingly children born to citizen mothers and foreign fathers are not eligible for citizenship. Citizen widows may confer citizenship on their minor children.

*Children.*—The plight of children was a growing concern for the government. Education was free in public schools and compulsory until the completion of the elementary level at age 12. However, implementation decrees were not issued. Public

schools generally were inadequate, lacking proper facilities, equipment and trained staff. Although private schools are widespread in the country, the cost of private education was a significant problem for the middle and lower classes. The UN Children's Fund reported that in the 2000 school year, approximately 85 percent of children between the ages of 3 and 5, and approximately 98 percent of children between the ages of 7 to 11 were enrolled in school. In some families with limited incomes, boys received more education than girls.

During the year the Higher Council for Childhood (administered by the Ministry of Social Affairs), in cooperation with several NGOs, organized five regional workshops to discuss the right to education and the obstacles that hinder the application of the law on compulsory education and ways to overcome them.

Boys and girls had equal access to medical care. The government provided vaccination and other pediatric health services in dispensaries operated by the Ministry of Health and the Ministry of Social Affairs. Access to hospitals was provided to all free of gender discrimination.

Children of poor families often sought employment and took jobs that jeopardized their safety (see section 6.d.).

No statistics were available on prostitution, but 97 minors were reported victims of sexual crimes in 2002.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and although the government made significant progress stemming some forms of trafficking in persons, it remained a problem. The Penal Code stipulates that, “any person who deprives another of freedom either by abduction or any other means shall be sentenced to temporary hard labor.” The country was a destination for East European and Russian women, contracted as dancers in adult clubs. Most of these women engaged in voluntary illegal prostitution and were at risk as targets of abuse.

The country was also a destination for women from Africa and Asia, usually contracted as household workers. Women are required by law to have good faith work contracts and sponsors, but often found themselves in coercive work situations with little practical legal recourse.

If forced prostitution or forced rendering of sexual services occurred as a result of abduction, the Penal Code stipulates that the abductor be sentenced to at least one year in prison; however, this law was applied inconsistently. Many women became illegal workers because their employers did not renew their work and residency permits or because they ran away from their employers' house, therefore becoming subject to detention and deportation. Unscrupulous employers sometimes falsely accused the employee of theft to relinquish responsibility for the employee as well as the taxes and return airline ticket (see section 6.e.).

Restrictions of movement and withholding of passports were common practice. A small number of exploited foreign workers won cases against their employers. Non-judicial action resolved the majority of these cases. As a result of that process, workers frequently were repatriated without further judicial action. A few cases were referred to the judiciary for further action, although the government took minimal steps to prosecute traffickers.

Six Filipinas who were working as migrants died in 2004, three of whom were believed to be attempting to flee abusive work environments when they died. The deaths of Perla Dizon, Rechel Del Pen, and Luz Pacuan were ruled accidents. The government closed the case of Catherine Bautista, finding no evidence that her employer sexually abused her. In the case of Herra Olandres, 2 medical reports acknowledged signs of rape 24 hours prior to her death. At year's end the case was under police investigation, as was the case of Luella Montenegro.

In November 2004 Filipina worker Helen Ganzon was reportedly tortured at a police station to confess that she stole money from her employer. The court that looked into the theft case accepted a settlement between Ganzon and her employer, but failed to pursue the alleged actions of torture at the police station. Ganzon was repatriated to the Philippines at her own request.

During the year the SG took some administrative measures against 16 places of frequented prostitution and against 3 employment agencies because they hired workers under fictitious sponsors.

Since July 2004 the SG stopped issuing visas to migrant workers from Ethiopia because Ethiopian authorities could not guarantee that adequate safeguards against fraud in the recruitment of these women for work in Lebanon were being taken.

Unlike in previous years, there were no reports during the year of any attempt to smuggle persons into the country.

The country made some progress in protecting victims of trafficking. The government did not provide foreign workers with relief from deportation, shelter, or access to legal, medical, or psychological services. However, in January the SG signed a

Memorandum of Understanding (MOU) with two NGOs that set up a safe house for migrant worker victims of significant abuse and began referring trafficking victims to the safe house. The MOU allowed social workers to accompany victims during interviews by immigration authorities. It also granted out-of-visa status for workers who were victims of abuse and permission to stay up to two months to assist in the investigation of their cases and the prosecution of their abusers and implemented screening and referral procedures for trafficking cases. NGOs indicated that the government still did not have a zero-tolerance policy for physical abuse of domestic workers.

In January in the wake of the Asian tsunami, the SG granted amnesty and waived penalties for up to 1,700 South Asians who did not hold valid visas, thereby permitting them to return to their countries without administrative complications or penalties by Lebanese authorities.

Two types of booklets explaining regulations governing migrant workers, including descriptions of their rights and responsibilities, were available upon request, or distributed as needed.

Pamphlets published by the government in 2004, which defined trafficking and informed potential victims on how to contact embassies, the ISF, the Red Cross, and NGOs for assistance were no longer being distributed to migrant workers upon arrival at Beirut International Airport.

*Persons with Disabilities.*—Discrimination against persons with disabilities continued. For example, the Civil Service Board, which is in charge of recruiting government employees, refused to receive applications from disabled persons. The law mandates disabled access to buildings; however, the government failed to take steps to amend building codes to conform to this law. Approximately 100 thousand persons were disabled during the civil war. Families generally cared for their own family members with disabilities. Most efforts to assist persons with disabilities were made by approximately 100 private organizations. These organizations were relatively active, although poorly funded.

The law on persons with disabilities stipulates that at least 3 percent of all government and private sector positions should be filled by persons with disabilities, provided that such persons fulfill the qualifications for the position. However, there was no evidence that the law was enforced in practice.

In 2002 the Ministry of Finance informed all firms and companies that it would not settle obligations with them unless they proved that 3 percent of their workforce was composed of persons with disabilities. However, the ministry failed to enforce this decision.

Many persons with mental disabilities were cared for in private institutions, many of which were subsidized by the government.

*National/Racial/Ethnic Minorities.*—According to the UNRWA, an estimated 402 thousand Palestinian refugees were registered in the country (see section 2.d.); however, credible sources believed that approximately 250 thousand to 300 thousand Palestinians actually resided in the country. Most Palestinian refugees lived in overpopulated camps that suffered repeated heavy damage as a result of fighting during the civil war, during the Israeli invasion of the country, and during on-going camp feuds. The government generally prohibited the construction of permanent structures in the camps on the grounds that such construction encouraged refugee settlement in the country. Refugees frequently feared that the government might reduce the size of the camps or eliminate them completely. Very few Palestinians received work permits, and those who found work usually were directed into unskilled occupations. Some Palestinian refugees worked in the informal sector, particularly in agriculture and construction. Palestinian incomes continued to decline. The law prohibited Palestinian refugees from working in 72 professions. However, on June 7, the minister of labor issued a memorandum authorizing Palestinian nationals born in the country and duly registered with the MOI to work in 50 (out of 72) professions banned to foreigners. However, there were no indications that this memorandum was implemented consistently.

Palestinian refugees do not have the right to own property in the country. Palestinians no longer may purchase property and those who owned property prior to 2001 are prohibited from passing it on to their children. The parliament justified these restrictions on the grounds that it was protecting the right of Palestinian refugees to return to the homes they fled after the creation of the state of Israel in 1948. Other foreigners may own a limited-size plot of land, but only after obtaining the approval of five different district offices. The law applies to all foreigners, but it was applied in a manner disadvantageous to the 25 thousand Kurds in the country. The government did not provide health services or education to Palestinian refugees, who relied on UNRWA for these services.

Many Palestinian children reportedly were forced to leave school at an early age to help earn income. Other reasons for dropouts were marriage (especially for minor girls), frustration, and hopelessness. Poverty, drug addiction, prostitution, and crime reportedly prevailed in the camps, although reliable statistics were not available.

On October 13, according to the government, a new office in the Ministry of Foreign Affairs was established to address the Palestinian refugee issue in a more comprehensive and just manner. One of the principal objectives of this office was to approve and increase the number of humanitarian projects designed to assist the Palestinian refugee population, with an emphasis on health and education. This office will seek additional donor assistance and cooperation from the international community and NGOs.

There were reports that Syrian workers, usually employed in manual labor occupations, suffered discrimination following the withdrawal of Syrian forces in April. Many Syrian laborers also reportedly left Lebanon out of fear of harassment. There were no data collected on this situation; therefore the true extent of the problem was unknown.

*Other Societal Abuses and Discrimination.*—Discrimination against homosexuals existed during the year. The law prohibits unnatural sexual intercourse, which is punishable by up to one year in prison. The law was sometimes applied to homosexuals. Citizens' sexual preferences reflected societal norms, not legal rulings. There are no discriminatory laws against persons with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, except government employees, may establish and join unions, and workers exercised this right in practice. The General Confederation of Labor (GCL) estimated that there were 900 thousand workers in the active labor force. Approximately 5 to 7 percent of workers were members of some 450 to 500 labor unions and associations, half of which were believed to be inactive. Most unions belonged to federations. At year's end 43 federations were voting members of the GCL. However, some unionists continued to claim that some of these federations were "virtual," that is, created by political interest groups to offset the votes of the 13 established labor confederations that actually represented workers. The GCL remained the only organization recognized by the government as an interlocutor that represented workers.

Antiunion discrimination was a common practice. In October 2004, two labor leaders were fired from the Lebanese Postal Service for union activities. The GCL interceded on numerous occasions to address the firing of unionists from companies but failed to reverse the decision.

Palestinian refugees may organize their own unions; however, because of restrictions on their right to work, few Palestinians participated actively in trade unions.

*b. The Right to Organize and Bargain Collectively.*—The right of workers to organize and to bargain collectively exists in law and practice. Most worker groups engaged in some form of collective bargaining with their employers. Stronger federations obtained significant gains for their members and on occasion assisted non-union workers. No government mechanisms promoted voluntary labor-management negotiations, and workers had no protection against antiunion discrimination.

The law provides for the right to strike, but unlike in previous years, the GCL did not organize any demonstrations.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not specifically prohibit forced or compulsory labor, including by children; however, articles within the law prohibit behavior that constitutes forced or compulsory labor. Nevertheless, children, foreign domestic workers, and other foreign workers sometimes were forced to remain in situations amounting to coerced or bonded labor (see sections 5 and 6.e.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a problem. The minimum age for child employment is 14 years. Under the law juveniles are defined as children between 14 and 18 years of age. The law prohibits the employment of juveniles before they undergo a medical exam to ensure their fitness for the job for which they are hired. The labor code prohibits employment of juveniles under the age of 18 for more than 6 hours per day, and requires 1 hour of rest if work is more than 4 hours. The law entitles them to 21 days of paid annual leave.

Juveniles are prohibited from working between the hours of 7 p.m. and 7 a.m. The law prohibits juveniles under the age of 17 from working in jobs that jeopardize their health, safety, or morals. It also prohibits the employment of juveniles under 16 in industrial jobs or jobs that are physically demanding or harmful to their health. The Ministry of Labor (MOL) was responsible for enforcing these require-

ments; however, it did not enforce the law effectively. In cooperation with the UN Office for Drug Control and Crime Prevention, the government inaugurated the Center for Juvenile Victims of Physical Abuse. As such, juveniles would no longer be interrogated at police stations but rather at the center, which was equipped according to international norms, in the presence of a social worker.

Children worked in predominantly trade-related jobs. The percentage of working children between the ages of 10 and 14 was estimated at 1.8 percent. The percentage of working children between the ages of 15 and 18 was 11.3 percent. There were no recent reliable statistics on the number of child workers.

In December 2004 the MOL completed a study on working street children, which provided a snapshot of the condition and nature of street children in the country. The report showed that the average street child was a boy (9 percent were girls), foreign (only 15 percent were citizens, the others were most often Palestinian and Syrian), 12 years of age, and poorly educated or illiterate. Street children were concentrated in large urban centers where approximately 47 percent of them were forced to work long hours on the streets by adults. The most common types of work were selling goods, including lottery tickets, shoe polishing, and washing car windshields. The children earned between \$2 and \$15 (3 thousand to 25 thousand pounds) per day. Only 19 percent of the children interviewed said they kept their income.

*e. Acceptable Conditions of Work.*—The government sets a legal minimum wage; during the year it was approximately \$200 (300 thousand pounds) per month, but it was not enforced effectively in the private sector. The minimum wage did not provide a decent standard of living for a worker and family. Trade unions attempted to ensure the payment of minimum wages in both the public sector and the large-scale private sector.

The law prescribes a standard 48-hour workweek, with a 24-hour rest period per week. In practice workers in the industrial sector worked an average of 35 hours per week, and workers in other sectors worked an average of 30 hours per week. The law includes specific occupational health and safety regulations. Labor regulations require employers to take adequate precautions for employee safety. The MOL was responsible for enforcing these regulations but did so unevenly. Labor organizers reported that workers did not have the right to remove themselves from hazardous conditions without jeopardizing their continued employment.

Some private sector firms failed to provide employees with family and transport allowances as stipulated under the law and to register them at the National Social Security Fund. Some companies also did not respect occupational health and safety regulations stipulated by the law. Workers are permitted to complain about violations to the GCL, an umbrella organization for trade unions, the Labor Ministry and the National Social Security Fund. In most cases, however, they preferred to remain silent fearing arbitrary dismissal.

Foreign domestic workers, mostly of Asian and African origin, were mistreated, abused, raped, or placed in situations of coerced labor or slavery-like conditions (see section 5). Recruitment agencies and employers are required to have signed employment contracts with the foreign worker. According to NGOs assisting migrant workers, however, these agreements were often undermined by second contracts signed in the source countries that stipulated lower salaries. Employers and agencies used these changes to pay the migrant a lower salary. Anecdotal evidence suggested that some employers did not pay their workers on a regular basis, and some withheld the salary until the end of the contract, which was usually two years. Government regulations prohibit employment agencies from withholding foreign workers' passports for any reason. However, in practice it continued to be common for employment agencies and household employers to withhold maids' passports. These measures were used to control the outside activities of the workers, specifically, to keep them from running away.

The law does not protect foreign domestic workers. Domestic workers often worked 18 hours per day and, in many cases did not receive vacations or holidays. There was no minimum wage for domestic workers. Although official contracts stipulate a wage ranging from \$100 to \$300 (150 thousand to 450 thousand pounds) per month, depending on the nationality of the worker, the actual salary was much less. Victims of trafficking or abusive labor situations may file civil suits or seek legal action, but most victims, often counseled by their embassies or consulates, settled for an administrative solution, which usually included monetary compensation and repatriation. The government did not release information on legal actions filed, but NGOs indicated that fewer than 10 legal actions were undertaken during the year.

In 2004 the MOL, which regulates the activities of employment agencies, closed 11 agencies for violations of workers' rights, including physical abuse. Perpetrators of the abuses, however, were not further prosecuted for a number of reasons, includ-

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ing the victims' refusal to press charges or a lack of evidence. The MOL, which also has jurisdiction in cases where the labor contract has been violated, reported adjudicating 35 such cases in 2004, deciding 23 in favor of the worker. An unknown number of other cases of nonpayment of wages were settled through negotiation. Nevertheless, there was evidence that the majority of such cases were not resolved, and the worker was repatriated without having received wages due. According to source country embassies and consulates, many workers did not report violations of their labor contracts until after returning to their countries.

## LIBYA

The Great Socialist People's Libyan Arab Jamahiriya is an authoritarian regime with a population of approximately six million, ruled by Colonel Mu'ammār Al-Qadhafi since 1969. The country's governing principles are derived predominantly from Colonel Qadhafi's *Green Book* ideology. In theory the citizenry rules the country through a series of popular congresses, as laid out in the 1969 Constitutional Proclamation and the 1977 Declaration on the Establishment of the Authority of the People. However, in practice Qadhafi and his inner circle monopolized political power. The legislative branch is composed of the unicameral General People's Congress (GPC) with 760 members elected indirectly for a 3-year term. The most recent "renewal" of the GPC by internal elections was in March 2004. Revolutionary Committees are nominally extragovernmental organizations that regulate many aspects of citizens' lives; however, in practice the government controlled the committees. The civilian authorities maintained effective control of the security forces.

The government's performance remained poor, although it took some steps to improve its human rights record. The following human rights problems were reported:

- inability of citizens to change the government
- torture
- poor prison conditions
- impunity
- arbitrary arrest and incommunicado detention
- lengthy political detention
- denial of fair public trial
- infringement of privacy rights
- severe restriction of civil liberties—freedom of speech, press, assembly, and association
- restriction of freedom of religion
- corruption and lack of government transparency
- societal discrimination against women, ethnic minorities, and foreign workers
- trafficking in persons
- restriction of labor rights

Some improvement occurred during the year. On January 12, the government abolished the People's Court. On October 9, the Supreme Court ordered the retrial of 86 political prisoners who were convicted by the People's Court in 2002. Authorities established a committee to investigate the 1996 Abu Selim prison riot, in which a large number of prisoners died. On December 25, the Supreme Court accepted the appeal of the Bulgarian and Palestinian medics and returned their case, in which they were accused of deliberately infecting 426 children with HIV-tainted blood in 1999, to the criminal court for a retrial.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings. However, on May 12, unknown actors abducted and later killed Daif Al Ghazal, a prominent journalist and anticorruption activist. The government stated that it had detained suspects, and an investigation was ongoing at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, but security personnel routinely tortured prisoners during interrogations or as punishment. Government agents reportedly detained

and tortured foreign workers, particularly those from sub-Saharan Africa. Reports of torture were difficult to corroborate since many prisoners were held incommunicado.

The reported methods of torture included chaining prisoners to a wall for hours, clubbing, applying electric shock, applying corkscrews to the back, pouring lemon juice in open wounds, breaking fingers and allowing the joints to heal without medical care, suffocating with plastic bags, deprivation of food and water, hanging by the wrists, suspension from a pole inserted between the knees and elbows, cigarette burns, threats of dog attacks, and beatings on the soles of the feet.

According to Amnesty International (AI) and Human Rights Watch (HRW), the foreign medical personnel charged with deliberately infecting children in a hospital in Benghazi reported that they had been tortured through electric shock and beatings to extract their confessions. On June 7, a court found not guilty 10 security officials accused of inflicting the torture.

On March 24, representatives of Physicians for Human Rights (PHR) and the International Federation of Health and Human Rights Organizations visited political detainee Fathi Al-Jahmi and reported that his isolated confinement and sporadic and inadequate medical treatment constituted cruel, inhuman, and degrading treatment (see section 1.d.).

*Prison and Detention Center Conditions.*—According to foreign diplomats and international organizations, prison conditions ranged from poor to adequate. Pretrial detainees and convicts were held together in the same facilities. Reportedly more than half of the prisoners in the country were pretrial detainees. Prison officials frequently held pretrial detainees for long periods (see section 1.d.).

In February 2004 the government permitted AI to visit some prisons and speak with inmates that AI considered “prisoners of conscience.” During its visit AI raised concerns with the government about the health of 86 Muslim Brotherhood prisoners in Abu Salim prison who undertook a 7-day hunger strike to protest lengthy delays in their appeal process. On March 24, the government also allowed PHR representatives to examine a limited number of detention facilities. For 3 weeks in May HRW visited the country after a 15-year absence and received access to police stations, prisons, and approximately 24 prisoners.

Security forces reportedly subjected detainees to cruel, inhumane, or degrading conditions and denied adequate medical care, which led to several deaths in custody.

The authorities established a committee to investigate the 1996 Abu Salim prison riot, in which a large but unknown number of prisoners died. No committee reports were released by year’s end.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the government did not observe these prohibitions. There were reports that security forces arbitrarily arrested and detained citizens during the year.

*Role of the Police and Security Apparatus.*—The country maintains an extensive security apparatus that includes police and military units, multiple intelligence services, local revolutionary committees, people’s committees, and “purification” committees. The result is a multilayered, pervasive surveillance system that monitors and controls the activities of individuals. Security forces can impose sentences without trial, and the various security forces committed numerous, serious human rights abuses with impunity.

*Arrest and Detention.*—The law provides that detainees can be held after arrest for up to 48 hours at a police station. They must then be brought before a prosecutor, who can hold them for six days for investigation. Detainees must then be brought before a judicial authority at regular intervals of 30 days to renew their detention order.

By law, bail must be set for pretrial detainees, detainees must have access to counsel, and public defenders represent those who cannot afford a private attorney. Detainees reportedly did not receive information on their rights to legal representation during interrogation. According to authorities, detainees have access to family members.

The government held many political detainees incommunicado for unlimited periods in unofficial detention centers controlled by members of the revolutionary committees. The government reportedly held hundreds of political detainees, many associated with banned Islamic groups, in prisons throughout the country, but mainly in the Abu Salim prison. Some human rights organizations estimated there were approximately two thousand political detainees, many held for years without trial. Hundreds of other detainees may have been held for periods too brief (three to four months) to permit confirmation by outside observers.

On January 12, the government arrested journalist Abd Al-Razia Al-Mansuri and held him incommunicado for several months. According to HRW, Al-Mansuri had

written approximately 50 Internet articles critical of the government and society (see section 1.e.).

On July 19, according to the Libya Watch for Human Rights, Kamel Mas'ud Al-Kilani returned to the country after receiving assurance of his safety, but he was arrested and taken to an unknown destination. No further information was available at year's end.

Since March 2004 the government has held political activist Fathi Al-Jahmi incommunicado, asserting that his detention was for his own protection. In 2002 Al-Jahmi was imprisoned after calling for democratic reforms but was released in March 2004. The government re-detained him two weeks later after he called again for reforms in several international media interviews. HRW visited Al-Jahmi in May, and he stated that he faced three charges: trying to overthrow the government, slandering Qadhafi, and contacting foreign authorities. No charges or trial had occurred by year's end.

In December 2004 human rights activist Ashur Al-Warfalli was arrested and held incommunicado for an extended period after issuing a statement against the government's human rights policy. Al-Warfalli's statement called for the release of political detainees, amnesty for exiles and dissidents, and freedom of expression for all citizens. He was reportedly released during the year without being charged.

Women and girls suspected of violating moral codes reportedly were detained indefinitely in "social rehabilitation" homes (see section 5).

*Amnesty.*—On September 3, the government pardoned 1,675 national and foreign prisoners in celebration of the 36th anniversary of Qadhafi's rule. In addition the government released eight political prisoners who had been serving prison terms up to life for participation in a banned political group.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, it was not independent in practice. The law stipulates that every person has the right to resort to the courts; however, security forces had the authority to pass sentences without trial, particularly in cases involving political opposition. The government used summary judicial proceedings to suppress domestic dissent. Qadhafi can interfere in the administration of justice by altering court judgments or replacing judges. The judiciary failed to incorporate international standards for fair trials, detention, and imprisonment.

The judicial system is composed of four tiers. The summary courts hear cases involving misdemeanors of lesser value. The decisions of this court may be appealed to the courts of first instance. These courts are composed of chambers of three judges and have the authority to adjudicate in all civil, criminal, and commercial cases. In addition the jurors apply the Shari'a principles in cases involving personal status. Cases from the courts of first instance may be appealed to the three courts of appeal, which are composed of panels of three judges. The Shari'a court of appeals hears cases from the lower Shari'a court.

The final court of appeal is the Supreme Court, composed of five separate chambers, one each for civil and commercial, criminal, administrative, constitutional, and Shari'a. The Supreme Court sits in chambers of five judges and rules by majority decision. The GPC elects the presiding president and other members of the Supreme Court.

The Supreme Council for Judicial Authority is the administrative authority of the judiciary, handling appointments, transfers, and disciplinary matters.

The law provides for the presumption of innocence, informing defendants of the charges against them, and the right to legal counsel. Defense lawyers automatically are appointed, even if the defendant declines to have one. There is usually very little contact, if any, between the lawyer and client.

On January 12, the GPC abolished the People's Court, a special tribunal outside of the judicial system, which violated fair trial standards during the prosecution of political cases. However, the revolutionary committees can convene national security courts to try political offenses. Such trials often were held in secret or in the absence of the accused. The government must review all cases of prisoners found guilty by the People's Court in the past. Reviews were ongoing at year's end.

On October 19, journalist Abd Al-Raziq Al-Mansuri was sentenced to 18 months in prison for illegal possession of a handgun. He had criticized the government on a foreign web site (see section 2.a.).

In May 2004 a court sentenced to death 6 foreign health workers accused of deliberately infecting 426 children with HIV-tainted blood in 1999. The sentences reportedly were based on confessions that the accused made under torture (see section 1.c.). International observers had serious concerns about the lack of investigation into allegations of torture and delays in bringing the case to a conclusion. On De-



ember 25, the Supreme Court accepted the appeal of the medics and ordered a retrial by the criminal court.

*Political Prisoners.*—A large but unknown number of individuals were convicted and imprisoned for engaging in peaceful political activity over a number of years for belonging to an illegal political organization. The law bans any group activity based on a political ideology contrary to the principles of the 1969 revolution.

On October 9, the Supreme Court ordered a retrial of the 86 Muslim Brotherhood activists, who were originally sentenced in 2002 for membership in an illegal political organization; their sentences had been confirmed by the People's Court. A new trial had not begun by year's end.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the government did not respect these prohibitions. The security agencies often disregarded the legal requirement to obtain warrants before entering a private home. They routinely monitored telephone calls and reportedly monitored the Internet.

The security agencies and the revolutionary committees oversaw an extensive network of informants. Foreign observers estimated 10 to 20 percent of the population was engaged in surveillance for the government. The government threatened to seize and destroy property belonging to "enemies of the people" or those who "cooperate" with foreign powers. Exiles reported that family members of suspected government opponents were harassed and threatened with detention.

There was no collective punishment of families or communities that aided, abetted, or did not inform the government of criminals and oppositionists. The law provides for punishments including the denial of access to utilities (water, electricity, telephone), fuels, food supplies, official documents, participation in local assemblies, and the termination of new economic projects and state subsidies. Collective punishment was inflicted on the relatives of individuals, particularly oppositionists, who are convicted of having committed certain crimes. In such cases, the punishment sometimes included expulsion and demolition of the family home.

Likewise there were no reports of the application of the purge law that provides for the confiscation of private assets above a nominal amount, describing wealth in excess of such undetermined amounts as "the fruits of exploitation or corruption."

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech "within the limits of public interest and principles of the Revolution"; however, the government severely limited the freedoms of speech and press, particularly any criticism of Qadhafi or government policy. According to the nongovernmental organization (NGO) Reporters Without Borders, press freedom worsened since 2004. The government tolerated some difference of opinion in people's committee meetings and at the GPC.

In March 2004 the government re-detained political activist Fathi Al-Jahmi after he denounced the regime to foreign media (see section 1.d.).

On May 21, unidentified men abducted writer Daif Al-Ghazal, who wrote web site articles critical of the government. On June 2, authorities found his body and later arrested two men. No further information was available at year's end.

On January 12, Abd Al-Raziq Al-Mansuri was arrested after writing some 50 articles and commentaries critical of the society and government for a foreign web site. The government claimed it arrested and sentenced Al-Mansuri in October for illegal possession of a handgun.

During the year the government released without charge journalist Ashur Al-Warfalli, who was arrested in December 2004 for releasing a statement calling for human rights reforms.

The government prohibited all unofficial political activities. By law many forms of speech or expression may be interpreted as illegal. The government operated an extensive system of informants resulting in self-censorship throughout society (see section 1.f.).

The government owned and controlled the print and broadcast media. There were no privately owned radio or television stations. Local revolutionary committees published several small newspapers. The official news agency, JANA, was the designated conduit for official views. The government did not permit the publication of opinions contrary to its policy.

Very few foreign publications were available; the government routinely censored them and at times prohibited their distribution. The publications law governs the operation of the press, reserving all publishing rights to two public entities: the Ad-dar Al-Jamahiriyah, and the General Corporation of Press, Professional Unions, and Syndicates.

Satellite television was widely available, although foreign programming was censored at times. Internet access was limited to a single service provider; however, the number of Internet users increased during the year. The government occasionally blocked some Internet sites.

The government severely restricted academic freedom. Professors and teachers who discussed politically sensitive topics faced the risk of government reprisal.

*b. Freedom of Peaceful Assembly and Association.*—The Law on Public Assemblies and Demonstration stipulates that “individuals may meet peacefully, and no police personnel are entitled to attend their meetings, moreover, they are not obliged to notify the police of such gatherings.” The law also provides for the right to hold public meetings in accordance with the regulations set by the law. However, the government severely restricted these rights in practice. Public assembly was permitted only with the government’s approval and in support of the government’s positions.

The government restricted the right of association to institutions affiliated with the government. The formation of groups based on a political ideology was banned (see section 3). Political activity deemed treasonous by the government was punishable by death. An offense may include any activity that is “opposed to the principles of the Revolution.”

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally tolerated the discreet practice of other religions but imposed some restrictions. Islam is the state religion, but militant forms of Islam are viewed as a threat to the regime. Since the wearing of a beard was associated with fundamentalist Islam, some Muslims reportedly shaved their beards to avoid security forces harassment. The government also controlled mosques and Islamic institutions and heavily censored clerics.

The World Islamic Call Society (WICS) was the outlet for the state-approved form of Islam. The government prohibited Islamic groups whose views were contrary to the authorized teachings. The WICS was responsible for relations with other religions in the country, including Christian churches.

Christian churches operated openly and were accepted by the authorities; however, the government imposed a limit of one church per denomination per city and prohibited proselytization of Muslims. There were no official places of worship for the practitioners of minority religions such as Hinduism, Buddhism, and the Baha’i Faith.

A noncitizen female who marries a Muslim citizen is not required to convert to Islam; however, a noncitizen male must convert to marry a Muslim woman. The government supports the position that all citizens are Muslim; marriages to non-Muslims were unacceptable.

*Societal Abuses and Discrimination.*—There were no reports of societal violence, harassment, or discrimination against members of religious groups. There was no reported Jewish community.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, Repatriation, and Exile.*—The Freedom Reinforcement Law stipulates that “each citizen, during the time of peace, may move freely, choose the place where he or she wishes to live, and may return to the country and leave whenever he or she chooses.” The law on travel documents guarantees these rights, and the government generally did not restrict the freedom of movement within the country. Authorities routinely seized the passports of foreigners married to citizens upon their entry into the country.

The law does not provide for or prohibit forced exile, but the government did not impose forced exile as punishment. The government continued to encourage the return of citizen dissidents abroad, promising to ensure their safety. Students studying abroad reportedly have been interrogated upon their return.

The law prohibits the extradition of political refugees; however, it does not provide for the granting of asylum or refugee status in accordance with the UN Convention relating to the Status of Refugees and its 1967 protocol. There was no established system to provide protection to refugees, and there was no national legislation to determine refugee and asylum status. In practice the government did not provide protection against *refoulement*, the return of persons to a country where they feared persecution. According to the UN High Commissioner for Refugees (UNHCR), the government considers refugees and asylum seekers as “foreigners residing in the country without any specific distinction.”

The country is not a party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol; however, it is a party to the former Organization of African Unity’s Convention Governing the Specific Aspects of Refugee Problems

in Africa. The government does not recognize the UNHCR representative for the country and has not signed a formal cooperation agreement with the UNHCR. During the year approximately 12 thousand refugees were registered with the UNHCR, although UNHCR estimated the total number of refugees in country was near 30 thousand. The majority of refugees were Palestinians, followed by smaller numbers of Somalis and Sudanese.

The government stipulates that any foreigner who enters the country illegally shall be deported. The government maintained detention camps to hold noncitizens waiting deportation and did not inform diplomatic representatives when their nationals were detained. There were reports of authorities leaving noncitizens in the desert without any aid.

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

The law makes no provisions for elections, and citizens do not have the right to change their government. The country's governing principles stem from Qadhafi's *Green Book*, which combines Islamic ideals with elements of socialism and pan-Arabism. The *Green Book* states that direct popular rule is the basis of the political system and that citizens play a role in popular congresses; however, Qadhafi, his close associates, and committees acting in his name controlled major government decisions.

During the year the semiofficial Qaddafi International Foundation for Charity Associations launched an initiative calling for political reform, including more press freedom, the release of political prisoners, and compensation for those who had been unfairly harmed by state actions.

The government prohibits the creation of and subsequent membership in political parties. The 1977 Declaration on the Establishment of the Authority of the People dictates how citizens exercise their political rights. The government is structured in a pyramid of committees and congresses, each layer of which is involved in the selection of the next highest level. Citizens participate through numerous organizations, which include vocational, production, professional, and crafts congresses. Voting for the leaders of the local congresses is mandatory for all citizens over the age of 18.

The elected secretaries of these various congresses and committees select the members of the highest legislative organization, the GPC, which is composed of 760 members serving 3-year terms.

Revolutionary Committees, composed primarily of youths, continued to guard against political dissent and ensured that citizens followed sanctioned ideology within society. These committees approved all candidates in elections for the GPC.

Elections occur every three years, when the people's congresses, the local bodies comprised of all citizens, choose their leadership committees. The last renewal of people's congresses took place in March 2004. The election process continues through the hierarchy of people's congresses, until the GPC chooses the general people's committee, which manages the daily affairs of the government.

There was 1 woman in the 760-seat GPC, and no women in the cabinet. There was no reliable information on the representation of minorities in the government.

*Government Corruption and Transparency.*—Government corruption was perceived to be a severe problem and favoritism, based on tribal origin, adversely affected government efficiency.

The law does not provide for public access to government information, and the government did not provide access in practice to citizens or foreign media.

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

Numerous charitable associations approved by the government operated in the country; however, the government prohibited the establishment of independent human rights organizations. Individuals wishing to carry out human rights work were forced to operate abroad due to restrictive laws that imposed imprisonment for forming or joining international organizations without government authorization (see section 2.b.). By law associations engaging in political activity are illegal. The government body known as the Libyan Arab Human Rights Committee did not release any public reports. The Libyan Society for Human Rights, operating under the sponsorship of the semiofficial Qadhafi International Foundation for Charity Associations, followed government policy priorities.

The government permitted a three-week visit by a HRW delegation in May and a PHR delegation in March. In February 2004 AI visited the country after a 15-year absence.

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

The law prohibits discrimination based on race, sex, religion, disability, or social status; however, the government did not enforce these prohibitions effectively, particularly with regard to women and tribal minorities.

*Women.*—The law prohibits domestic violence, but there was no reliable information on the penalties for punishment. There was little detailed information regarding the extent of violence against women; however, it reportedly remained a problem. Abuse within the family rarely was discussed publicly.

The law prohibits rape. The convicted rapist of a girl must marry the girl, with her agreement, or serve a prison term of up to 25 years.

The law does not prohibit female genital mutilation (FGM), which is foreign to the culture and society. There were reports that FGM may have been performed on girls in remote areas of the country due to a large expatriate community of women from countries where FGM was practiced.

The law prohibits prostitution; however, the authorities tolerated it.

The 1969 Constitutional Proclamation granted women total equality; however, traditional attitudes and practices continued to discriminate against women. Shari'a governs inheritance, divorce, and the right to own property.

Women and girls suspected of violating moral codes reportedly were detained indefinitely in "social rehabilitation" homes. Many detained in these facilities had been raped and ostracized by their families. A woman or girl may be released if a male relative takes custody of her or if she consents to marriage.

The Department of Women's Affairs, under the GPC secretariat, collects data and oversees the integration of women into all spheres of public life. The General Union of Women's Associations, established by the government as a network of nongovernmental organizations, addresses women's employment needs. Traditional restrictions discouraged women from playing an active role in the workplace and inhibited employment gains by women.

On September 19–20 the People's Committee for Manpower held a conference on women's empowerment that focused on employment opportunities in travel, fashion, and human resources.

In general the emancipation of women was a generational phenomenon. Educational differences between men and women have narrowed; however, a significant proportion of rural women did not attend school and were inclined to instill in their children such traditional beliefs as women's subservient role in society.

*Children.*—The government subsidized primary, secondary, and university education, and primary education was compulsory until age 15. According to a 2003 United Nations Development Plan report, 96 percent of school-age children attended primary school, and most reached at least a 6th-grade level. Only 53 percent of girls and 71 percent of boys attended secondary school. The government subsidized medical care, and improved the welfare of children; however, general economic mismanagement led to a low standard in medical services.

*Trafficking in Persons.*—The penal code prohibits prostitution and related offenses, including sexual trafficking. The law prescribes punishments for trafficking in persons.

Women were trafficked through the country from Africa to Central Europe. It was also considered a destination country for victims from Africa and Asia trafficked for sexual and labor exploitation. Moroccan women reportedly were trafficked to the capital to work as prostitutes. The government engaged in joint collaborations with other affected countries to combat human trafficking.

*Persons with Disabilities.*—The law safeguards the rights of persons with disabilities and provides for monetary and other types of social care; however, the government had limited effectiveness implementing provisions. There are a number of government-approved societies that care for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Arabic-speaking Muslims of mixed Arab-Amazigh ancestry constituted 97 percent of the population. The principal minorities were Amazighs and sub-Saharan Africans.

There were frequent allegations of discrimination based on tribal status, particularly against Amazighs in the interior and Tuaregs in the south.

The law as well as the Names Correction Committee discriminate against the use of non-Arabic languages and do not recognize the right of individuals to use their tribal names. The ban on the registration of non-Arabic names prevented the Amazighs from naming children in their own language.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions without previous authorization or excessive requirements, and the government re-

spected this right in practice. Members of each profession may form their own unions and syndicates to defend their professional rights. Workers may join the National Trade Unions' Federation, which is administered by the people's committee system; however, the government prohibited foreign workers from joining this organization. The federation played an active role in the International Confederation of Arab Trade Unions, the Organization of African Trade Union Unity, and the World Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The government must approve all collective agreements made between unions and employers to ensure that they were in line with the nation's economic rights. The law does not provide workers with the right to strike, and there were no reports of strikes during the year. There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits any form of forced or compulsory labor, including by children; there were no reports of forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides that children under the age of 18 may not be employed in any form of work, unless it is done as a form of apprenticeship. There was no information available on the prevalence of child labor.

There was no information regarding whether the law limits working hours or sets occupational health and safety restrictions for children. The Ministry of Manpower is responsible for preventing child labor.

*e. Acceptable Conditions of Work.*—The labor law defines the rights and duties of workers, including matters of compensation, pension rights, minimum rest periods, and working hours. The legal maximum workweek was 48 hours.

Wages are forbidden by the *Green Book* and paid in the form of "entitlements," which frequently were in arrears. A public sector wage freeze imposed more than a decade ago continued, particularly in the face of consistently high inflation. The highest salary under the wage freeze was \$227 (300 dinars) per month; many families lived on significantly lower income. Although there was no information available regarding whether the average wage was sufficient to provide a worker and family with a decent standard of living, the government heavily subsidized rent, utilities, and food staples.

Labor inspectors were assigned to inspect places of work for compliance, and the law grants workers the right to court hearings regarding health and safety standards. Certain industries, such as the petroleum sector, attempted to maintain standards set by foreign companies. There was no information regarding whether workers may remove themselves from an unhealthy or unsafe work situation without risking employment.

Foreign workers constituted 1.6 million of the 3.2 million workforce; however, the labor law does not accord them equality of treatment. Foreign workers were permitted to reside in the country only for the duration of their work contracts, and they could not send more than half of their earnings to home countries. They were subjected to arbitrary pressures, such as changes in work rules and contracts, and had little option other than to accept such changes or depart the country. Many foreign workers were deported arbitrarily for not having newly required work permits for unskilled jobs they already held.

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## MOROCCO

Morocco is a constitutional monarchy with an elected parliament and a population of approximately 30 million. Ultimate authority rests with King Mohammed VI, who presides over the Council of Ministers, appoints or approves members of the government, and may, at his discretion, terminate the tenure of any minister, dissolve the parliament, call for new elections, and rule by decree. In the bicameral legislature, the lower house may dissolve the government through a vote of no confidence. The 2002 parliamentary elections for the lower house were widely regarded as free, fair, and transparent. The 2003 elections for local government councils were recognized as well-administered. In the latter elections, the government limited the participation of the Islamist Party of Justice and Development (PJD), one of the 27 political parties in the country. The civilian authorities generally maintained effective control of the security forces.

There was progress in the implementation of the *Moudawana* (Family Status Code); the work of the Equity and Reconciliation Commission (IER); and the suppression of sex tourism during the year; nevertheless, the human rights record re-

mained poor in many areas. Human rights organizations and the Polisario Front (Popular Front for the Liberation of the Saguia el Hamra and Rio de Oro), an organization seeking independence for the western Sahara, accused the government of excessive force in Laayoune and Dakhla (Western Sahara) against demonstrators in May and in the fall and criticized the subsequent trials and harsh sentences given demonstrators. Human rights activists in the Western Sahara reported to Amnesty International (AI) and Human Rights Watch (HRW) that they were tortured. Monthly demonstrations by unemployed university graduates in front of the parliament were disrupted by consistently excessive security force intervention. The following human rights problems were reported:

- inability of citizens to change fully their government
- excessive police force resulting in deaths of demonstrators and migrants
- unresolved cases of disappearance
- allegations of torture
- poor prison conditions
- arbitrary arrest and incommunicado detention
- police and security force impunity
- lack of judicial independence
- occasional warrantless searches
- restrictions on freedoms of speech and press
- some restrictions on religious freedom
- corruption and lack of transparency
- societal discrimination affecting women
- trafficking in persons
- child labor

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, on October 30, Hamdi Lembarki died in Laayoune, Western Sahara, during a demonstration in support of Western Sahara independence.

Accounts differ concerning Lembarki's death. According to media reports, eyewitnesses claimed that police beat Lembarki to death. The government initially claimed Lembarki died from injuries sustained when he was hit by a stone thrown by another demonstrator. The government investigated Lembarki's death and arrested two police who were awaiting trial at year's end.

On October 6, border guards shot and killed four African migrants trying to enter illegally the Spanish enclave of Melilla. According to a government report, two other migrants later died from multiple wounds.

There were no further developments regarding the killing of Abdelhaq Bentasser, Mohamed Bouannit, and Driss Dida. The guards involved in these cases were investigated, tried and convicted during 2003 and 2004; they remained in prison.

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

There were no developments in the disappearance of Hassan Essidig, reported by the Moroccan Association for Human Rights (AMDH) to have been arrested in April 2004 upon arrival at Mohamed V Airport. There were no developments in the case of Mohamed Damir, who disappeared after the May 2003 terrorist attacks.

The AMDH continued to claim that the practice of incommunicado detention confirmed the persistent practice of forced disappearance (see section 1.d.). According to a June 2004 report by Amnesty International (AI), the Directorate General for Territorial Surveillance (DGST) practice was to deny holding the person in question, particularly those in the Temara detention center. In such cases family members and lawyers usually learned of the detention after the detainee was brought before a magistrate, charged, and placed in pretrial detention; in this context the secret detention amounted to a period of disappearance.

Forced long-term disappearances of individuals opposing the government and its policies occurred over a period spanning several decades. Associations that sought information regarding those who disappeared called upon the government for full disclosure of events surrounding cases dating back to the 1960s. In 1997 the government pledged that such activities would not recur and that it would disclose as much information as possible about past cases; authorities stated that they released

information on all 112 confirmed disappearance cases. Human rights groups and families continued to claim cases of disappearances, many from the Western Sahara.

In January 2004 the IER began work to settle serious violations of human rights, including compensation for all outstanding cases of arbitrary detention and disappearance from independence in 1956 to the king's 1999 ascension to the throne. Public hearings on torture and disappearances began in December 2004 and ended April 25. The IER received 22 thousand applications and interviewed petitioners at the rate of 5 per day as part of a process to catalogue the full range of abuses and determine compensation. The IER organized several activities, including visits to former secret detention centers and villages, but not to the Western Sahara, where a number of inhabitants were persecuted, and seminars for the public, academics, and journalists on literature written by former prisoners on the subject of state violence (see section 4).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the government denied the use of torture; however, according to local and international human rights organizations and lawyers, prisoners, and detainees, members of the security forces tortured or otherwise abused detainees. The penal code stipulates sentences up to life imprisonment for public servants who use or allow the use of violence against others in the exercise of their official duties. By law pretrial investigating judges must refer a detainee to an expert in forensic medicine if asked to do so or if judges notice suspicious physical marks on a detainee. Unlike in the past year, judges enforced this requirement according to the Ministry of Justice.

Attorneys for some persons who were convicted under the 2003 antiterrorism law claimed that their clients' convictions were based on signed confessions coerced under torture. There was no indication that the government took any action in response to claims of torture made in August 2003 at the Court of Appeal in Fez by 29 persons accused of terrorism, and judicial authorities reportedly refused to order any medical examinations.

In June 2004 AI published a report that accused security authorities of systematic torture and ill treatment of suspects held at the Temara detention center. AI noted a sharp rise over the past two years in such cases in the context of "counter terrorism" measures as well as the failure of government authorities to investigate these reports. The government pledged to investigate each of the alleged cases in the AI report. The government did not provide an update on these cases.

During 2003 and 2004 AI and other human rights organizations reported torture and ill treatment during initial interrogations of prisoners, including beatings, electric shocks, and sexual abuse. Former detainees reported that authorities held them in secret detention and denied contact with lawyers or family. The AI report also documented accusations of arbitrary detention and forced confessions of detained terrorism suspects.

Authorities had not yet published a result of an investigation ordered in March 2004 by then Minister of Human Rights Mohamed Oujjar into whether those detained in connection with the May 2003 Casablanca explosions had been subjected to torture and human rights violations.

*Prison and Detention Center Conditions.*—Prison conditions remained extremely poor and generally did not meet international standards, despite some improvements in medical care and efforts by the Ministry of Justice, Directorate of Prisons to expand capacity. Extreme overcrowding, malnutrition, and lack of hygiene continued to aggravate the poor health conditions inside prisons. Pretrial detainees were not held separately from convicts.

On May 3, Khalid Boukri, 28, died in prison near Benslimane. An autopsy indicated that he died of tuberculous pneumonia rather than from any wounds on the body. At the time of his death, he was participating in a hunger strike begun May 2 by 600 Islamist prisoners arrested following the May 2003 attacks. On April 10, Abdelmoumen Massoudi, imprisoned for assault and battery and who reportedly suffered from psychological problems, died of heart failure and dehydration, according to officials. Massoudi was on a hunger strike allegedly because he wanted to be isolated from other prisoners. In April 2004 Zakaria Douibi died in custody in Kenitra prison. Authorities said that he committed suicide by hanging himself with a blanket tied to an iron bar in his cell.

The Moroccan Prison Observatory (OMP), an NGO independent of the government that advocates prisoner rights, highlighted the lack of training and education of prison guards; the fact that prisoners frequently needed to pay for services; violence in the prisons as well as drug abuse, malnutrition, and mistreatment; and the incarceration of first-time offenders with hardened criminals. The government permitted some OMP members to visit prisons, particularly in Casablanca.

OMP, citing figures released in June 2004 by the International Centre for Prison Studies, reported that the population in the country's 46 prisons, designed to hold 39,000 prisoners, was 54,542.

In July 2004 the Commission of the Royal Advisory Council on Human Rights (CCDH) issued its first annual report, which mainly addressed prison overpopulation and poor prison conditions. In a speech following the release of the report, Minister of Justice Mohamed Bouzoubaa said that prison overcrowding was a major concern and that many detentions were unnecessary. Although Bouzoubaa said that his ministry was considering alternatives to prison sentences, no proposals had been announced by year's end.

*d. Arbitrary Arrest or Detention.*—The law does not prohibit arbitrary arrest or detention, and police used both practices. Police did not always observe due process; for example, they sometimes did not identify themselves at the time of arrest of suspects, nor always obtain warrants. The police occasionally held detainees without being charged or, if charged, they were sometimes denied a public preliminary judicial hearing within a reasonable period.

*Role of the Police and Security Apparatus.*—The security apparatus includes several police and paramilitary organizations with overlapping authorities. The National Police (DGSN), the DGST, the Mobile Intervention Corps, and the Auxiliary Forces are independent entities. The Royal Gendarmerie reports to the Ministry of Defense and was responsible for law enforcement in rural regions, including national highways. The Department of Royal Security reports to the palace.

The National Police managed the border and immigration services. The main federal investigative body, the National Brigade, investigated violations of the federal penal code, such as terrorism, organized crime, and white-collar crime. The DGST and the Auxiliary Forces had security functions.

The government continued to express concern about police corruption. Police impunity remained a problem; however, police training was ongoing, as well as investigations of police abuse.

*Arrest and Detention.*—Police may make an arrest following a general prosecutor's issuance of an oral or written warrant, although in practice were sometimes issued after the fact. Detainees had no access to family members of lawyers during the first 48 hours of detention, and that period can be extended to 96 hours.

Under the antiterrorism law, those arrested may be held for 96 hours, with 2 additional 96-hour extensions allowed at the prosecutor's discretion. Authorities denied defendants access to counsel or family members during this initial period, which was when police interrogated detainees and abuse or torture was most likely to occur (see section 1.c.).

The law provides for a limited system of bail; however, it rarely was granted. The law does not require a written authorization for a person to be released from detention. In some instances judges released defendants on their own recognizance. The antiterrorism law, passed in 2003, does not include a system of bail. Under a separate military code, military authorities may detain members of the military without warrants or public trial.

According to law all defendants have the right to be represented by attorneys and, if a defendant cannot afford private counsel, a court-appointed attorney must be provided. This provision was respected in practice. The police were required to notify a person's next of kin of an arrest as soon as possible after the initial 48-hour incommunicado detention, but this provision was not always respected in practice. Because of delays in contacting family, lawyers were not always informed promptly of the date of arrest and were not able to monitor compliance with the administrative detention limits.

Several attorneys representing defendants who were arrested under the antiterrorism law charged that authorities falsified arrest records to cover up periods of detention exceeding the legal requirement. Many defendants attempted to recant confessions in court, saying that they had not read them. Most defendants did not have access to counsel until shortly before trial, and the detainees usually did not know the contents of the alleged confessions until they were introduced as evidence in court. Judges uniformly dismissed motions to recant confessions and often did not allow evidence and witnesses for the defense.

Some members of the security forces, long accustomed to indefinite access to detainees before charging them, continued to extend detention limits. In 2003 AI reported that some of those arrested had been held incommunicado for as long as 5½ months. A large increase in detainees and prisoners led to increased allegations of incommunicado detentions that were difficult to confirm.

There were no reports of political detainees. The government maintained that it detained individuals for criminal activity only; however, international and local



NGOs stated that police detained individuals, especially in the Western Sahara, for apparently short-term political motives and released them later without charge.

During the year royal pardons and other judicial processes decreased to about one thousand the number of individuals held because of suspected links to terrorist groups or for suspected involvement in the 2003 Casablanca suicide attacks. Human rights activists and attorneys estimated as many as four thousand persons had been detained originally. The government did not provide a confirmed figure of the number of detainees held originally.

In March 2004 the AMDH reported that several Islamist prisoners, adherents of the Salafia Jihadia, a regional movement espousing violence to achieve Islamist goals, were isolated in the Kenitra jail, deprived of medical care and decent food, and not allowed private visits. On March 8, relatives protesting outside of the jail were forcibly dispersed and removed by police (see section 2.b.). The CCDH investigated the report and stated that none of AMDH's allegations was true. The prisoners were imprisoned for being part of the 2003 terrorist attacks, or members of extremist movements.

On April 7, authorities released Mohamed Bouhcini, a guide and translator, from jail. No formal charges had been brought against him since he was jailed in December 2004 after being accused by a convicted drug trafficker of delivering hashish to him during Bouhcini's trip with journalists to the Rif Mountains.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; nevertheless, the courts were subject to extrajudicial pressures, including government influence. Efforts continued to increase efficiency and to end corruption, but, according to most observers, corruption was viewed as a routine cost of doing business in court.

In June the Supreme Council of the Judiciary initiated disciplinary proceedings against seven judges for possible corruption. One of the judges was dismissed; three were temporarily dismissed; two retired early; and one was found not guilty. Disciplinary proceedings are conducted yearly by the Ministry of Justice.

There are four levels in the common law court system: communal and district courts; courts of first instance; the appeals court; and the Supreme Court. All decisions made in criminal and civil matters in which the penalty exceeds approximately \$33 (330 dirhams) may be appealed to the courts of first instance (regional courts). The regional courts are subdivided into civil, commercial, administrative, and penal and rabbinical sections. Cases may be appealed from the regional courts to the appeals court.

The Supreme Court is subdivided into five chambers: constitutional; penal; administrative; social; and civil. The constitutional chamber is composed of the First President of the Supreme Court, three judges appointed by the king, and three judges appointed by the president of the Chamber of Representatives.

In theory there is a single court system under the Ministry of Justice; however, other courts also operated including administrative courts, commercial courts, and military tribunals that exist only for military personnel. The central audit court, which is the supreme audit institution, and nine regional audit courts had judicial powers as well. In January 2004 the Council of Ministers eliminated the Special Court of Justice, as the council perceived the court as lenient and discriminatory in its review of officials accused of bribery and other abuses of power. In place of the Special Court of Justice, appeals courts heard cases against government officials accused of abuse of power.

At the government's discretion, serious state security cases such as those relating to the monarchy, Islam, or territorial integrity (in practice advocating independence for the Western Sahara) may be brought before a specially constituted tribunal, responsible to the Ministry of Interior. There were no such cases during the year.

*Trial Procedures.*—The law provides for the right to a fair public trial; however, according to human rights NGOs, this did not always occur in practice.

Although accused persons generally are brought to trial within an initial period of two months, prosecutors may request up to five additional two-month extensions of pretrial detention. Thus, an accused person may be kept in detention for up to one year prior to trial.

According to law all defendants have the right to be represented by attorneys and, if a defendant cannot afford private counsel, a court-appointed attorney is provided. The Ministry of Justice is required to provide an attorney at public expense for serious crimes (when the offense carries a maximum sentence of more than five years). However, attorneys were not always appointed, or if provided, they were poorly paid, resulting often in inadequate representation. In addition judges sometimes denied defense requests to question witnesses. Defendants are given the right to be

present and to timely consultation with an attorney. Trials are public and juries are used. Throughout the year, progress was made regarding adherence to the law.

In general authorities arraigned detainees before a court of first instance. If the judge determined that a confession was obtained under duress, the law requires him to exclude it from evidence. However, human rights NGOs charged that judges decided cases often on the basis of forced confessions, especially in cases of Islamists accused of terrorism (see section 1.c.) or in the cases of some Saharawis.

Appeals court may in some cases be used as a second reference for courts of first instance, although they primarily handled cases involving crimes punishable by five years or more in prison. In practice defendants before appeals courts who are implicated in crimes with such a punishment consequently have no method of appeal. The Supreme Court does not review and rule on cases sent to it by the appeals court; the Supreme Court may overturn an appellate court's ruling on procedural grounds only. Therefore, there were few appeals for defendants in crimes whose penalty was long periods of confinement. An investigation by an examining magistrate was mandatory only when life imprisonment or the death penalty was a probability.

Human rights groups criticized as unfair the trials of demonstrators in Laayoune and Dakhla (Western Sahara), some of which were held in June and July. The groups reported that confessions were acquired under duress and lawyers had inadequate access to the defendants.

Human rights groups also voiced criticism regarding the conduct of some 2004 trials, which proceeded very quickly for some defendants, including mass trials of 50 persons.

In October 2003 the Minister of Justice established family courts to adjudicate divorce and child custody cases in anticipation of proposed reforms to the *Moudawana*. These courts addressed family issues for Muslim citizens, and the judges were trained in Shari'a (Islamic law) as applied in the country. By the end of the year, the Ministry of Justice, often in cooperation with international NGOs, had trained 300 new judges and 60 family court judges, while 600 judges had participated in continuing education courses.

Plans called for the establishment of 70 family courts with 1 for each province. At the end of 2004, the government had established 20 of these courts. No new specific family courts had been established by year's end. Family matters for Jewish citizens were handled by a parallel legal system available to them (see section 2.c.).

*Political Prisoners.*—The law does not distinguish political and security cases from common criminal cases. The government did not consider any of its prisoners to be political prisoners, although some NGOs considered selected detainees from the Western Sahara to be political prisoners.

Lack of free speech and media in the Western Sahara complicated attempts to confirm whether Sahrawis were imprisoned solely for their political affiliation, for open advocacy of independence, or for other violations of the law. In 2004 various international human rights groups estimated that 700 persons were imprisoned for advocating Western Saharan independence.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law states that the home is inviolable and that no search or investigation may take place without a search warrant, although authorities sometimes ignored these provisions. The law stipulates that a prosecutor may issue a search warrant on good cause, particularly in cases of terrorism. Plainclothes security officers who did not identify themselves or present search warrants conducted home searches. The Moroccan Organization for Human Rights (OMDH) and AMDH, as well as the Islamist Justice and Charity Organization (JCO), reported home searches.

Government security services monitored certain persons and organizations, both foreign and domestic, and government informers monitored activities on university campuses.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law generally provides for freedom of expression with restrictions, and throughout the year several publications tested the boundaries of press freedom.

The antiterrorist law and the press code impose financial penalties on journalists and publishers who violate the restrictions on defamation; libel; critical discussion of the monarchy; territorial integrity (advocating independence for the Western Sahara); and Islam. Prison sentences also can be imposed on those convicted of libel. The press code lists threats to public order as one of the criteria for censorship. Within these limits, politically diverse newspapers and weeklies published news and commentary and were sometimes critical of government policies. In October 2004 the government amended the press code to remove prison penalties for violations

of the antiterrorist law's restrictions. The government punished persons who violated limitations on free speech.

In June Nadia Yassine, a leading member of the JCO and daughter of its leader, was summoned before the courts for publicly stating her belief that the country would be healthier as a republic than as a monarchy. Her trial was postponed.

The government generally controlled the media through directives and guidance from the Ministry of Communication, subsidies, and advertising allocation. The government confiscated or indefinitely suspended publications judged offensive. The government censored newspapers directly by ordering them not to report on specific items or events. The government registered and licensed domestic newspapers and journals and used the licensing process to prevent the establishment of new publications or the publication of materials that exceeded its threshold of tolerable dissent. The Ministry of Communication controlled foreign publications by removing banned publications from circulation.

There were approximately two thousand domestic and foreign newspapers, magazines, and journals during the year. The government owned the official press agency, Maghreb Arab Press. The government also supported two semiofficial dailies, the French-language *Le Matin* and the Arabic-language *Assahra Al Maghribia*, and subsidized the press through price controls for newsprint and office space.

The government owned Moroccan Radio-Television. While nominally private and independent, the French-backed Medi-1 practiced self-censorship, as did other media outlets. A government-appointed committee monitored broadcasts. The government owned the only television stations whose broadcasts could be received in most parts of the country without decoders or satellite dish antennas. Satellite dish antennas were widely used. The government did not impede the reception of foreign broadcasts.

The government did not allow the JCO newspaper, *Rissalat Al Foutuwa*, to be sold on newsstands.

According to a Committee to Protect Journalists (CPJ) report, on January 18, authorities told editors of the Oujda-based weeklies *Al-Sharq* and *Al-Hayat Al-Maghribiya* to cease publication of their weeklies immediately for three months because of an article published in support of the 2003 terrorist attacks. Authorities imprisoned the editors for three months before they received a royal pardon. At year's end, the publications had resumed publication.

In January 2004 the courts fined journalist Narjis Erraghay \$0.11 (1 dirham) for charges of defamation brought against her for a 1999 article she wrote for the *Al Bayanne* newspaper in which she named Minister Mahmoud Archane as a torturer during his tenure at the Derb Moulay Cherif police station in Casablanca. Erraghay appealed the case. The parties reached a nonpublic agreement and the case was dismissed.

In January 2004 the king pardoned 33 prisoners including 7 journalists. Among the journalists was Ali Lmrabet, who had been sentenced in 2003 under the press code, to 4 years imprisonment, later reduced to 3 years on appeal, and fined \$2 thousand (20 thousand dirhams) for disrespecting the king, disparaging the monarchy, and challenging the country's territorial integrity. Lmrabet's newspapers, the French-language *Demain* and the Arabic-language *Doumain*, remained banned at year's end.

The other journalists pardoned in January 2004 were Mustapha Alaoui, Abdel Majid Ben Taher, Mustapha Kechnini, Mohamed Al Herd, Abdelaziz Jallouli, and Miloud Boutrigui. All were convicted in 2003 of offenses related to the government's handling of the 2003 terrorist attacks.

On April 12 the Rabat court of first instance convicted Lmrabet of defaming The Association of Relatives of Sahrawi Victims of Repression, a progovernment group, banned him from journalism for 10 years, and ordered him to pay \$5 thousand (50 thousand dirhams). In a Spanish newspaper article in November 2004, he had referred to the Sahrawis in Tindouf, Algeria, as "refugees" rather than as prisoners of the Polisario. According to the CPJ, local journalists had never heard of the Association of Relatives of Sahrawi Victims of Repression prior to January when Lmrabet first tried unsuccessfully to register a successor weekly to his banned publications. On June 23, an appeals court upheld the 10-year ban on Lmrabet's writing and the fine. In addition, Lmrabet was obligated to publish the verdict for 21 days in an Arabic-language newspaper at a cost of up to \$120 thousand (1.2 million dirhams).

On August 15, a court sentenced Ahmed Benchemsi, director of an independent French-language weekly magazine, *TelQuel*, and Karim Boukari, a journalist for *TelQuel*, to two months in jail for an article that apparently defamed a parliament member. The magazine was also fined \$100 thousand (one million dirhams), enough

to jeopardize the magazine's financial viability. The case was appealed, but there was no decision by year's end.

The media consistently practiced self-censorship.

The law requires the Ministry of Interior to justify to the courts any seizure or banning of domestic or foreign publications, suspension of the publisher's license, or destruction of equipment. The law provides for three to five-year jail sentences, fines, and payment of damages for newspaper officials found guilty of libeling public officials.

The government generally did not block Internet access; however, in November according to HRW, authorities began blocking access to Internet sites advocating independence for the Western Sahara.

The government restricted academic freedom. There was no open debate on the monarchy, Islam, or the country's incorporation of the Western Sahara per constitutional restrictions, but guidelines were not consistently enforced. Government informers monitored campus activities, mostly those of Islamist groups. The Ministry of Interior approved the appointments of university rectors.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, but it also permits the government to suppress peaceful demonstrations and mass gatherings.

*Freedom of Assembly.*—The law requires government permission for public assemblies, and authorities granted permission only for events considered nonthreatening to government policies. Police forcibly prevented and disrupted some peaceful demonstrations and mass gatherings. There were numerous demonstrations held throughout the year on a variety of issues. Unemployed diploma holders demonstrated monthly in front of the parliament. Intervention by the security forces was consistently excessive, even when persons with physical disabilities participated. On December 15, during a police assault on a demonstration by the National Dependent Group of Unemployed Moroccans, five protesters attempted a collective self-immolation using gasoline; one of the protesters died after being hospitalized for burns.

*Freedom of Association.*—The law provides for freedom of association, although the government limited this right in practice. Under a decree restricting civil society organizations, persons who wish to create an organization are required to obtain the approval of the Ministry of Interior to hold meetings. In practice the ministry generally used this requirement to prevent persons suspected of advocating causes opposed by the government from forming legal organizations. Historically, extreme Islamist and leftist groups encountered the greatest difficulty in obtaining official approval.

The Ministry of Interior must approve political parties, and in December the parliament passed legislation placing more stringent conditions on political parties. The law requires parties to hold frequent national congresses and to include women and youth in party leadership structures. Public funding of parties is to be based on a party's total representation in parliament and the total number of votes received nationally. Under the law a party can be disbanded if it does not conform to the provisions. To create a new party, a declaration must be submitted to the Ministry of Interior and signed by at least 300 cofounding members from one-half of the 16 regions of the country. Previously, under the 1957 law on associations, only three founding members were necessary. The new law reflects changes and revisions suggested by all political parties and members of civil society.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The constitution designates the king as Commander of the Faithful and says that Islam is the official state religion; nevertheless, non-Muslim communities openly practiced their faiths with varying degrees of official restrictions. The government placed restrictions on certain Christian religious materials and proselytizing by members of any religion.

The government did not license or approve religions or religious organizations. The government provided tax benefits, land, building grants, subsidies, and customs exemptions for imports necessary for the observance of the major religions.

Beginning in 2003 authorities accused several imams and religious counselors of exploiting mosques to promote Islamist parties. The Ministry of Islamic Affairs and Endowments continued to monitor mosques, placed other restrictions on Muslims and Islamic organizations whose activities were deemed to have exceeded the bounds of religious practice or become political in nature, and began to provide religious training for imams, both male and female. The government strictly controlled the construction of new mosques, requiring a permit for construction. Authorities said that these measures were instituted to avoid exploitation of mosques for polit-

ical propaganda, such as distributing pamphlets and raising funds, or for disseminating extremist ideas.

The Ministry of Islamic Affairs and Endowments monitored Friday mosque sermons and the Koranic schools (religious training institutions) to ensure the teaching of approved doctrine. At times the authorities suppressed Islamist activity, but they generally tolerated activities limited to the propagation of Islam, education, and charity. Unlike the practice until 2003, security forces did not close mosques to the public shortly after Friday services to prevent the use of the premises for unauthorized political activity.

The government provided funds for the teaching of Islam in public schools as part of overall public education funding.

On October 27, authorities dropped charges against Hamid Al-Madany, a Christian convert from Islam who had been arrested for proselytism after police found his passport on a foreign Christian arrested for distributing Christian materials in Tehouan.

The small foreign Christian community operated churches, orphanages, hospitals, and schools without restrictions or licensing requirement. Missionaries who conducted themselves in accordance with cultural norms could largely work unhindered, but those who proselytized publicly faced expulsion. During the year there were reports of police questioning foreign missionaries because they carried Christian materials. The number of local Christians, apart from foreign spouses of citizens, was minute.

The government permitted the importation, display, and sale of Bibles in French, English, and Spanish, but not in Arabic, despite the absence of any law banning such books.

Islamic law and tradition called for punishment of any Muslim who converted to another faith. Any attempt to induce a Muslim to convert was illegal.

At year's end the Shiite organization Al Ghadir had not received an answer to its 2002 request for official status, the first such request for a Shiite association.

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts, publications, or incitements to violence or hatred.

Representatives of the Jewish minority, numbering about five thousand, generally lived in safety throughout the country. The Jewish community operated a number of schools and hospitals whose services were available to all citizens. The government provided funds for religious instruction to the small parallel system of Jewish public schools. Jews continued to hold services in synagogues throughout the country.

There are two sets of laws and courts—one for Muslims and one for Jews—pertaining to marriage, inheritance, and family matters. Under the new Family Status Code, which applies to Muslims, the government began retraining judges and recruiting new civil judges, while rabbinical authorities continued to administer family courts for Jews. There were no separate family courts for other religious groups. The government continued to encourage tolerance and respect among religions.

During the 2003 terrorist attacks, members of the Salafiya Jihadia bombed five targets, including a Jewish community center in Casablanca. After the attacks Muslims marched in solidarity with Jews to condemn terrorism. Annual Jewish commemorations took place in the country, and Jewish pilgrims from the region regularly came to holy sites in the country. The International Committee of the Red Cross (ICRC) assisted the Ministry of National Education and the Ministry of Islamic Affairs and Endowments in designing a course on tolerance and international humanitarian law, which was introduced in selected schools.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement; however, the government restricted this right in certain areas. In the government-administered Western Sahara, authorities restricted movement in areas regarded as militarily sensitive and denied passports to a number of persons opposed to government policy in the territory.

The Ministry of Interior restricted the freedom to travel outside the country in certain circumstances. All civil servants and military personnel must obtain written permission from their ministries to leave the country.

The law provides for forced exile; however, there were no known instances of its use during the year.

The government welcomed voluntary repatriation of Jews who had emigrated. Jewish emigres, including those with Israeli citizenship, freely visited the country. The government also encouraged the return of Sahrawis who departed the country

due to the conflict in the Western Sahara, provided that they recognized the government's claim to the territory.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In November 2003 the government adopted the Law on Emigration and Immigration that provides for the rights of asylum seekers and the temporary residency of persons who do not qualify for refugee status or asylum. The UN High Commissioner for Refugees (UNHCR) is currently the sole agency in the country entitled to grant refugee status and verify asylum cases. The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The UNHCR continued to evaluate claims of refugee status in its office in Rabat.

In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and provided refugee status and asylum; however, there were reports that persons with possible claims to refugee status were turned away at the country's borders. The government organized a series of repatriations at its own expense.

On October 7, the NGO Doctors Without Borders (MSF) found approximately 500 illegal immigrants in the Sahara desert, abandoned by the government without food or water. The government removed the illegal immigrants from the country through which they were attempting to pass on their way to Europe, particularly Spain, the closest point. The government repatriated many of the immigrants at its own expense prior to the MSF report and following the report.

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

The law provides for regular, free elections on the basis of universal suffrage, although citizens did not have the full right to change their government.

The king as head of state appoints the prime minister, who is the titular head of government. The constitution authorizes the prime minister to nominate all government ministers, but the king may nominate ministers and has the power to replace any minister. The government consists of 35 cabinet-level posts, including 5 sovereign ministerial posts traditionally appointed by the king (interior, foreign affairs, justice, Islamic affairs, and defense). The Ministry of Interior nominates to the king the provincial governors (*walis*) and local district administrative officials (*caids*), and the king appoints them. The king also appoints the constitutional council.

Parliament has the theoretical ability to change the system of government, although the constitution may not be changed without the king's approval. Citizens elect municipal and regional councils.

*Elections and Political Participation.*—In September 2003 the government held elections for positions on approximately 25 thousand municipal councils. The government listed official turnout at 54 percent. By most accounts the balloting was well organized, but there were allegations of corruption and vote buying in some of the races. The government limited the participation of the PJD, the only Islamist party to participate in the elections, running candidates in 18 percent of the municipalities. Female candidates won 1.7 percent of municipal council seats while fielding 5 percent of the candidates. Following the elections, council members elected new mayors in all cities.

In September 2002 the government held the first free and fair parliamentary elections. The election took place under a revised electoral code, including a proportional list system, plus a national list of 30 seats reserved for women. There were candidates from 26 parties, and 52 percent of those eligible voted, according to government statistics. Observers noted that the absence of fraud and manipulation generally enhanced the credibility of reform efforts.

The parliament included 30 women who won seats reserved for women on the national list, plus 5 who won seats in their local districts. There were three female members of the upper house.

*Government Corruption and Transparency.*—There was a general perception in the country that corruption existed in the executive and legislative branches of government. In June the Supreme Council of the Judiciary initiated disciplinary proceedings against seven judges (see section 1.e.). Some human rights observers described bribery of officials, including the judiciary, as a grave impediment to human progress. They claimed that bribery was increasing, and that senior officials lacked the will to combat it. Some human rights activists said that authorities made scapegoats of a few prominent cases.

Transparency International's Corruption Perception Index reported an increase in perceptions of official corruption in the current year as compared to the previous year.

There was no freedom of information law.

The government publishes new laws and regulations in the official gazette within 30 days after their passage or promulgation.

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

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

National human rights NGOs recognized by and cooperating with the government included: the OMDH; the Moroccan League for the Defense of Human Rights (LMDDH); and the AMDH. The AMDH did not cooperate officially with the government, but usually shared information. Since 2000 OMDH and LMDDH have had government subsidies in recognition of their serving the public interest. There were also numerous regional human rights organizations.

The Forum for Truth and Justice (FVJ) and the OMP were two additional prominent national human rights NGOs. Created by victims of forced disappearance and surviving family members, the FVJ's principal goal was to encourage the government to address openly the issue of past forced disappearances and arbitrary detention. The OMP's main purpose was to improve the treatment and living conditions of prisoners. These groups maintained fairly regular contact with government authorities throughout the year.

In 2003 authorities dissolved the Western Sahara branch of the FVJ on the charge that the organization had undertaken illegal activities that were likely to disturb public order and undermine the territorial integrity of the country. AI suggested that FVJ activities were the peaceful expression of views on the issues of self-determination and human rights. Six human rights activists arrested following the demonstrations in Laayoune in May were members of the FVJ, according to an AI report in August.

The government's attitude toward international human rights organizations depended on the sensitivity of the areas of the NGO's concern. The government generally was cooperative regarding disappearances and abuses by security forces. Although government officials met in 2002 with the International Council for the Rehabilitation of Victims of Torture (a Danish NGO), the government did not agree to its recommendation to permit the UN Committee Against Torture to make confidential investigations in the country and to consider individual complaints. There were no visits by the UN committee during the year.

During the year the ICRC made several visits, as did both AI and HRW.

Human rights training continued, based on an agreement between AI and the government for a 10-year human rights education program. The Ministry of Justice and the Ministry of National Education provided human rights education for teachers and, in cooperation with the ICRC, provided a curriculum for teaching international humanitarian law in schools. The government provided increased human rights training to prison officials, military officers, police, and medical personnel. The CCDH advised the palace on human rights issues, and the king charged CCDH to resolve cases related to persons who had disappeared.

In July 2004 the CCDH produced its first annual report on human rights in the country, a report mandated in 2002 by the government. The CCDH report focused at length on prison conditions and prison overpopulation. In December 2002 the king established a nonjudicial ombudsman to consider citizen allegations of governmental injustices and thereby ensure respect for the rule of law and justice. The last report submitted was in 2004 and the CCDH reviewed it.

In January 2004 the Equity and Reconciliation Commission (IER) began work. The authorities tasked the IER with making reparations for families of disappeared persons and other victims of abuse, restoring the dignity of victims, providing for their rehabilitation and medical care, and creating a thorough accounting of the events which led to human rights abuses and the circumstances of the crimes. The IER, headed by former political prisoner Driss Benzekri, had a one-year mandate that authorities extended until November 30 due to the larger than expected number of petitions.

The IER staff interviewed petitioners through the year, held public hearings on torture and disappearances, visited former prisons, and met with victims in regions that were particularly victimized, families of victims, and witnesses of violations. The press widely publicized the IER's activities. Under agreement with the IER,

participants in public hearings did not disclose the names of persons they considered responsible for violations. During its mandate the IER received more than 22 thousand applications. Of these, the IER assessed 16,861 cases. While the IER had prepared for public hearings in the Western Sahara, they were not held due to time constraints and unrest in the territory.

On December 1, the IER submitted its final report to the king, who determined that it would be released to the public. A newly formed section of the CCDH had responsibility to ensure compensation of all victims and follow through on the final IER recommendations.

#### *Section 5. Discrimination, Societal Abuses, Trafficking in Persons*

The law prohibits discrimination based on race, sex, disability, language, or social status; however, traditional practice discriminated against women, particularly in rural areas. In January 2004 both houses of parliament unanimously approved a new law governing personal status. These reforms to the *Moudawana* were designed to make the law free of gender discrimination.

*Women.*—The law does not specifically prohibit domestic violence against women, but the general prohibitions of the criminal code address such violence. Spousal abuse was common, but there were no reliable statistics regarding its extent. Spousal abuse was more frequent in rural than urban areas and among less-educated persons. Although a battered wife had the right to file a complaint with police, as a practical matter, she would do so only if prepared to bring criminal charges. Physical abuse legally was grounds for divorce, although for legal and societal reasons, few women reported abuse to authorities.

While there was substantial progress in making the public aware of problems concerning women, public awareness was uneven. In July 2004 the Ministry of Family Solidarity set up toll free numbers for victims of domestic violence in 20 centers throughout the country. The government established the centers based on statistics relating to each category of violence as compiled by the Ministry of Justice and the size of the urban area. There was no information available on the effectiveness of this initiative.

The criminal code provides for severe punishment for men convicted of rape or sexual assault, and the authorities enforced the provisions. The defendants in such cases bear the burden of proving their innocence. However, sexual assaults often go unreported because of the stigma attached to the loss of virginity. While not provided by law, victim's families may offer rapists the opportunity to marry their victims to preserve the family honor. Spousal rape was not a crime.

The law is lenient toward men with respect to crimes committed against their wives. Police are reluctant to become involved in what are considered private matters between husband and wife. Police hesitate also to violate privacy laws. Honor crimes, or assaults against women with the intent to kill, are committed because of the perception that a woman's behavior brings shame on the family. Such crimes were extremely rare.

The law prohibits prostitution; however, it was prevalent, especially in urban centers. NGO activists estimated that there were thousands of teenage prostitutes in urban centers. Their clientele were both foreign tourists and citizens. In July the government acted against sex tourism, convicting 60 local prostitutes in Agadir, a resort town. Authorities also arrested three young women in Agadir after their photographs were discovered on a pornographic Web site. The arrests drew criticism from human rights activists, who pointed out that the men involved, tourists from Gulf countries and Europe, were not punished. At the end of the year, authorities discovered an international prostitution ring in the Ifrane area with links to Jordan. Trafficking in persons was a problem (see sections 5, Trafficking, and 6.c.).

There was no law against sexual harassment, and there were no reliable statistics reporting on the extent of the problem.

The changes to the *Moudawana* introduced a number of changes to the status of women. The new law increased the marriage age for women from 15 to 18 years, placed the family under the joint responsibility of both spouses, rescinded the wife's duty of obedience to her husband, eliminated the requirement of a marital tutor for women as a condition to marry, created divorce by mutual consent, and imposed limitations on the practice of polygamy.

Authorities predicated the reforms on the establishment of 70 family courts and the training of judges to implement the reforms (see section 1.e.). The new family status code relies much more heavily on the court system than the previous law. Under the reforms time limits were established for the family courts to pronounce judgments; for example, a month for alimony cases and six months for divorces.

The criminal code generally accorded women the same treatment as men; however, the family status code governs family and estate cases. Even in cases in which



the law provides for equal status, cultural norms often prevented a woman from exercising her rights.

While many well-educated women pursued careers and there were two female ministers and a number of female CEOs, few women rose to the top echelons of their professions. Women constituted approximately 35 percent of the work force, with the majority in the industrial, service, and teaching sectors. Government statistics indicated that 22 percent of women were the primary wage earners for their families. The government reported that the illiteracy rate for women was 62 percent in urban areas (82 percent in rural areas), compared with 41 percent for men (50 percent in rural areas). Women in rural areas were most affected by inequality. Women who earned secondary school diplomas had equal access to university education. During the last academic year, over 80 percent of the attendees at government supported literacy programs were women, 55 percent of whom were in rural areas.

Many NGOs worked to advance women's rights and to promote women's issues. Among these were the Democratic Association of Moroccan Women, the Union for Women's Action, and the Moroccan Association for Women's Rights; all advocated enhanced political and civil rights. There were numerous NGOs that provided shelters for battered women; taught women basic hygiene; family planning; childcare; and promoted literacy.

*Children.*—The government was committed to the protection of children's welfare. The law provides for compulsory, free, and universal education for children between the ages of 6 and 15, and the government increasingly sought to enforce the law. For example, in the last academic year, 51 percent of kindergarten-aged children were enrolled; for the current academic year, 61 percent were enrolled. The number of students enrolled after 6 years of age increased from 53.5 percent to 91 percent in the past year, according to the Ministry of National Education.

A May 2004 report from the Secretariat for Literacy and Non-Formal Education estimated that as many as 1.5 million children between the ages of 9 to 15 were not in school. Over 140 thousand were enrolled in government remedial and vocational education programs.

The Ministry of National Education stated its goal was to reduce the student dropout rate from the current 40 percent to 20 percent. In the past the dropout rate had been as high as 70 percent. The ministry attributed the reduction in the rate was a result of boarding schools established in small towns and rural areas. Students were able to attend these schools, spend the night, and receive meals.

There were no reliable statistics on the number of girls married below the age of 18. UNICEF reported in 2004 that 18 percent of all marriages were child marriages; 24 percent of these occur in rural areas and 13 percent in urban areas. Using the family status code, the government, in coordination with international and local NGOs, informed women of their rights, partially in order to combat child marriages.

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

In 2003 the government signed an accord with Spain to repatriate unaccompanied minors. As part of the accord, Spain agreed to help the government reunify children with their families, place the children in halfway houses, and provide remedial education for the repatriated children. The accord has assisted the government with the repatriated minors; however, during the year a problem developed concerning these unaccompanied repatriated children. Upon their return to the country, the children encountered material difficulties and abuse on the streets, as well as abuse by border officials. The government had limited capacity to deal with this problem (see section 5, Trafficking).

The new family law provides that children born out of wedlock can carry the father's name.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The 2003 Immigration and Emigration Act specifically prohibits trafficking in persons and fines and imprisons those, including government officials such as border patrol and immigration officers, who are involved in or who fail to prevent trafficking in persons. Under the penal code, perpetrators were prosecuted either for fraud, kidnapping, corruption of minors, or for forcing others into prostitution.

Women were trafficked abroad, and internal trafficking was also a problem, particularly of women for sexual exploitation or of young girls for domestic service. The government, working with local NGOs, particularly the Casablanca-based Baiti, provided health services to the women and girls as well as vocational training leading to employment.

The country was a transit point for trafficking and alien smuggling to Europe. Spain, the closest European country, was the initial destination point. In 2003 the

government created a binational commission on illegal migration and trafficking in persons with Spain, and began conducting joint patrols of the waters between the mainland and the Canary Islands. While the patrols were concerned primarily with reducing the voluntary migration of persons through the country to Spain, the effect of the patrols hindered trafficking.

Trafficking of women for prostitution was prevalent, and prostitution was a problem particularly in cities with large numbers of tourists, as well as near towns with large military installations. Prostitution of trafficked minors was a particular problem in the village of El Hajeb near Meknes, as well as in Agadir and Marrakech, which attracted sex tourists from Europe and the Arab Gulf states (see section 5, Children). To combat prostitution the government amended the penal code in 2003 to make sex tourism a crime, while other amendments increased the penalties for promoting child pornography and child prostitution and for employing underage children. Recent arrests indicate that the amendment had an impact.

The government did not provide direct funding to NGOs offering services to victims of trafficking; however, the government provided in-kind support. The government supported programs to keep children in school, improve education opportunities for rural girls, and expand economic opportunities in high-risk areas.

*Persons with Disabilities.*—There are no laws to assist persons with disabilities. The government has guidelines on how to deal with persons with disabilities, but they have no legal effect. Specifically, the law does not mandate access to buildings for persons with disabilities. While the Office of the Secretary of State for Families, Children, and the Handicapped attempted to integrate persons with disabilities into society, in practice integration largely was left to private charities. Nonprofit special education programs were too expensive for most families. Typically, families supported persons with disabilities, and some of the disabled survived by begging.

*National/Racial/Ethnic Minorities.*—The official language was Arabic; however, both French and Arabic were used in the news media and educational institutions. Science and technical courses were taught in French, thereby preventing the large, monolingual Arabic-speaking population from participation in such programs. Educational reforms in the past decade emphasized the use of Arabic in secondary schools. Failure to transform the university system similarly led to the disqualification of many students from higher education in lucrative fields. The poor lacked the means to obtain additional instruction in French to supplement the few hours per week taught in public schools.

Approximately 60 percent of the population claimed Berber heritage, including the royal family. Berber cultural groups contended that their traditions and language were being lost rapidly. Responding to this concern, official media broadcasts in the Berber language increased during the year from four to eight hours a day. Berber language classes also were included in the curriculum of 350 primary schools, affecting approximately 25 thousand students.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law permits workers to establish and join trade unions, although the laws reportedly have not been implemented in some areas. Most union federations were allied with political parties, but unions were free from government interference. Approximately 5.5 percent of the country's workers were organized. Companies were forbidden from undermining legitimate work stoppages.

In June 2004 a new labor code went into effect. Nevertheless, the government continued to rely on an older tripartite process to reach accords on a reduction in the workweek from 48 to 44 hours, and on a 10 percent increase in the minimum wage. The labor code details restrictions on the number of overtime hours worked per week and rate of pay for holidays, nightshift work, and routine overtime.

The law specifically prohibits antiunion discrimination and incorporates elements of ILO Convention 87, but prohibits several categories of public employees the right to form unions. These include members of the armed forces, the police, and the judiciary. The new law expressly prohibits companies from dismissing workers for participating in legitimate union organizing activities. The law also prescribes the government's authority to intervene in strikes. Under the law, employers are no longer able to initiate criminal prosecutions against workers participating in strikes.

Union officers were sometimes subject to government pressure. Union leadership did not always uphold the rights of members to select their own leaders. Government pressure to remove the leader of the General Union of Moroccan Workers (UGTM), one of Morocco's most powerful unions, was controversial because of the pressure applied and the fact that the leader had been in office for 40 years.

The courts have the authority to reinstate arbitrarily dismissed workers and are able to enforce rulings that compel employers to pay damages and back pay. Unions

may sue to have labor laws enforced, and employers may sue unions when they believe unions have overstepped their authority.

*b. The Right to Organize and Bargain Collectively.*—The labor law mandates the right to organize and bargain collectively, and the government generally upheld this right. Trade union federations competed among themselves to organize workers. Any group of eight workers may organize a union, and a worker may change union affiliation easily. A work site may contain several independent locals or locals affiliated with more than one labor federation. However, only unions able to show at least 35 percent of the workforce as members may be recognized as negotiating partners.

Collective bargaining was a longstanding tradition in some parts of the economy, such as the industrial sector, and was becoming more prevalent in the service sector, including banking, health, and the civil service. The wages and conditions of employment of unionized workers generally were set in discussions between employer and worker representatives. However, employers set wages for the vast majority of workers unilaterally. Labor disputes arose in some cases as the result of employers failing to implement collective bargaining agreements and withholding wages.

The law requires compulsory arbitration of disputes; prohibits sit-ins; establishes the right to work; calls for a 10-day notice of a strike; and allows the hiring of replacement workers. The government can intervene in strikes, and a strike cannot take place around issues covered in a collective contract for one year after the contract comes into force. The government has the authority to break up demonstrations in public areas where strikes have not been authorized and to prevent the unauthorized occupancy of private space, such as a factory.

Unions may not prevent nonstrikers from working and may not engage in sabotage. Any striking employee who prevents a replacement worker from getting to his job is subject to a seven-day suspension. A second offense within one year is punishable by a 15-day suspension.

Employers wishing to dismiss workers are legally required to notify the provincial governor through the labor inspector's office. In cases in which the employer plans to replace dismissed workers, a government labor inspector provides replacements and mediates the cases of workers who protest their dismissal.

In general the government ensured the observance of labor laws in larger companies and in the public sector. In the informal economy, such as in the family workshops that dominated the handicrafts sector, employers routinely ignored labor laws and regulations, and government inspectors lacked the resources to monitor violations effectively.

In the Tangier Free Trade Zone, an export processing zone, the country's labor laws and practices fully apply to the 10 thousand employees. The proportion of unionized workers in the export zone was comparable to the rest of the economy, at approximately 6 percent.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5, Trafficking). In practice the government lacked the resources to inspect the many small workshops and private homes where the vast majority of such employment occurred. Forced labor persisted in the practice of adoptive servitude in households (see section 5, Children).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Many children worked in the informal and farming sectors due to the economic difficulties of their families. The government had difficulty addressing the problem of child labor, except in organized labor markets (see section 6.c.). Despite legislation young girls were exploited as domestic servants on a large scale (see section 5, Trafficking).

The practice of adoptive servitude, in which urban families employed young rural girls and used them as domestic servants, was widespread. Credible reports of physical and psychological abuse in such circumstances were common. Some orphanages were charged as complicit in the practice. More often, parents of rural girls contracted their daughters to wealthy urban families and collected the salaries for their work as maids. The public generally accepted the concept of adoptive servitude. It was unregulated by the government, although public criticism of the practice was growing. The National Observatory of Children's Rights had since 2000 conducted a human rights awareness campaign regarding the plight of child maids.

According to HRW the majority of child domestics worked 14 to 18 hours per day without breaks, 7 days a week, for salaries of \$0.40 to \$0.11 (0.4 to 1 dirham) per hour, and most child domestics did not receive any money directly; rather, they worked in effect for food, lodging, and clothing. HRW reported that police, prosecutors, and judges rarely enforced penal code provisions on child abuse or on "forced

labor in cases involving child domestics,” and few parents of children working as domestics were willing or able to pursue legal avenues that were unlikely to provide any direct benefit.

During the year, however, the government arrested on abuse charges two local employers of child maids. The arrests were made under new provisions of the penal code and were facilitated by government-NGO cooperation. The court sentenced 1 employer to 18 months in jail. The publicity surrounding these arrests helped inform the public about the legal and moral issues involved.

In May a foreign-government-funded child labor education initiative project, ADROS, announced that it had successfully withdrawn 3,543 children (including 2,417 former child maids) from the labor market and placed them in training and educational programs. Along with UNICEF and several domestic NGOs, the IPEC had several small, ongoing programs to provide child maids and other working children with rudimentary education, health care, and leisure activities.

The legal minimum age of employment was 15 years. The minimum age applied to all sectors and included apprenticed children and those in family businesses. The law prohibits children under 18 from being employed more than 10 hours per day, including a minimum of a 1-hour break, or in hazardous or night work.

The number of children working illegally as domestic servants was high, approximately 36 thousand. Of this number, 59 percent were under 15 years of age, 89 percent were recruited from rural areas, and 80 percent were illiterate. A 2001 joint study by the Moroccan League for the Protection of Children and UNICEF denounced the poor treatment many children received, such as being forced to work all day with no breaks.

Noncompliance with child labor laws was common, particularly in agriculture where, according to a 2003 survey by the International Program on the Elimination of Child Labor (IPEC) and the Ministry of Employment, 84 percent of the country's 600 thousand underage workers worked on family farms. In practice children often were apprenticed before age 12, particularly in small, family-run workshops in the handicraft industry. Children worked also in the informal sector in textile, carpet, and light manufacturing activities. Safety and health conditions, as well as wages in businesses that employ children, often were substandard. Children working in the textile sector remained a problem, and the government maintained that the informal handicrafts sector was difficult to monitor.

Ministry of Employment inspectors enforced child labor regulations, which generally were observed in the industrialized, unionized sector of the economy. Before the passage of the 2003 labor code, the inspectors were not authorized to monitor the conditions of domestic servants. The law empowered labor inspectors and police to bring charges against employers of underage children and specify penalties.

*e. Acceptable Conditions of Work.*—Neither the minimum wage for the industrialized sector nor the wage for agricultural workers provided a decent standard of living for a worker and family, even with extensive government subsidies. In many cases several family members combined their incomes to support the family. Most workers in the industrial sector earned more than the minimum wage. They generally were paid between 13 and 16 months' salary, including bonuses, each year.

The minimum wage was approximately \$223.30 (2,023 dirhams) per month in the industrialized sector. It was approximately \$5.60 (56 dirhams) per day for agricultural workers; however, businesses in the informal sector, which accounted for 60 percent of the labor force, often ignored the minimum wage requirements.

The minimum wage was not enforced effectively in the informal and handicraft sectors. To increase employment opportunities, the government allowed firms to hire recent graduates for a limited period through a subsidized internship program at less than the minimum wage. However, due to economic conditions, most interns were not offered full-time employment at the conclusion of their internships. According to the government, the overall unemployment rate during the year was 10.8 percent, but some union leaders contended that a more accurate figure, including underemployment, was approximately 35 percent. The government pay scale exceeded the minimum wage for workers at the lowest civil service grades.

The law provides for a 44 hour maximum workweek, with no more than 10 hours in any single day, premium pay for overtime, paid public and annual holidays, and minimum conditions for health and safety, including a prohibition on night work for women and minors. Employers did not observe these provisions universally and the government did not enforce them effectively in all sectors.

Occupational health and safety standards were rudimentary, except for a prohibition on the employment of women and children in certain dangerous occupations. Labor inspectors attempted to monitor working conditions and investigate accidents, but they lacked sufficient resources. While workers in principle had the right to remove themselves from work situations that endangered health and safety without

jeopardizing their continued employment, there were no reports of workers attempting to exercise this right.

#### WESTERN SAHARA

Morocco claims the Western Sahara territory, with a population of approximately 267 thousand, and administers Moroccan law and regulation in the approximately 85 percent of the territory it controls; however, Morocco and the Polisario Front (Popular Front for the Liberation of the Saguia el Hamra and Rio de Oro), an organization seeking independence for the region, dispute its sovereignty. Since 1973 the Polisario has challenged the claims of Spain, Mauritania, and Morocco to the territory. The Moroccan government sent troops and settlers into the northern two-thirds of the territory after Spain withdrew in 1975, and extended its administration over the southern province of Oued Ed-Dahab after Mauritania renounced its claim in 1979. Moroccan and Polisario forces fought intermittently from 1975 until the 1991 ceasefire and deployment to the area of a UN peacekeeping contingent, known by its French initials, MINURSO.

In 1975 the International Court of Justice advised that during the period of Spanish colonization legal ties of allegiance existed between Morocco and some of the Western Sahara tribes, but the court also found that there were no ties indicating "territorial sovereignty" by Morocco. The court added that it had not found "legal ties" that might affect UN General Assembly Resolution 1514 regarding the decolonization of the territory and in particular the principle of self-determination for its persons. Sahrawis (as the persons native to the territory are called) live in the area controlled by Morocco, as refugees in Algeria near the border with Morocco, and, to a lesser extent, in Mauritania. A Moroccan-constructed sand wall, known as the "berm," separates most Moroccan-controlled territory from Polisario-controlled sections.

In 1988 Morocco and the Polisario accepted the joint Organization of African Unity/UN settlement proposals for a referendum allowing the Sahrawis to decide between integration with Morocco or independence for the territory. However, disagreements over voter eligibility were not resolved and a referendum has not taken place. In 1997 UN Secretary General Kofi Annan appointed James Baker as his personal envoy to explore options for a peaceful settlement.

Baker visited the territory, consulted with the parties, offered proposals to resolve the problem, and in 2001 presented a "framework agreement," which Morocco accepted but the Polisario and Algeria rejected. In 2003 Baker proposed a peace plan, which the UN Security Council endorsed. The plan proposed that a referendum consider integration with Morocco or independence, and addressed other questions agreed to by the parties, such as self-government or autonomy. Morocco ultimately rejected the plan, while the Polisario accepted it.

On August 1, the UN Secretary General appointed Peter Van Walsum to oversee the political process as his personal envoy replacing Baker, who resigned in June 2004.

On October 28, the Security Council adopted Resolution 1634, extending MINURSO and its 227 military staff until April 30, 2006, and calling on member states to consider making contributions to fund confidence-building measures to allow for increased contact between family members separated by the dispute, which UN Secretary General Kofi Annan called "deadlocked" in a report to the Security Council.

A substantial Moroccan subsidy aided migration and development, designed to strengthen the Moroccan hold on the 80 percent of the territory it controls. The Moroccan government also subsidized incomes, fuel, power, water, and basic food commodities for its citizens living in the Western Sahara. In October 2004 the Moroccan government unveiled a five-year approximately \$800 million (7.2 billion dirham) development program for all of what it called its "southern provinces," most of which are the territory.

Moroccan law applied to the civilian population living in the territory under Moroccan administration. Political rights for the residents remained circumscribed, and citizens did not have the right to change their government. UN observers and foreign human rights groups maintained that the Moroccan government monitored the political views of Sahrawis closely, particularly those suspected of supporting independence and the Polisario.

Since 1977 the Saharan provinces of Laayoune, Smara, Awsard, and Boujdour (and Oued Ed-Dahab since 1983) have participated in Moroccan elections organized and controlled by the Moroccan government. In the 2002 Moroccan parliamentary elections, Sahrawis with political views aligned with the Moroccan government filled all the seats allotted to the territory. In 2003 the Moroccan government conducted

municipal elections in Morocco and the Western Sahara. No Sahrawis opposed to Moroccan sovereignty were candidates in the elections. According to Moroccan government statistics, the national turnout was 54 percent, including 68 percent in the territory.

From May 21 through May 25 and sporadically thereafter, 300 to 13 hundred individuals demonstrated in Laayoune, ostensibly protesting the transfer of a Sahrawi prisoner to Agadir. The Moroccan government arrested 37 demonstrators during and after the May demonstrations. Of those arrested, 12 received jail terms up to five years for damaging public property and using weapons against officials. Amnesty International (AI) claimed that demonstrators received prison terms up to 20 years. On May 30, further demonstrations occurred in Dakhla. The press reported the number of participants to be as high as 15 hundred.

Demonstrations broke out again in Laayoune in late October, initially in support of the independence of the Western Sahara, and later to draw attention to the thirtieth anniversary of the Green March. One Sahrawi, Hamdi Lembarki, died October 30 of wounds from the previous day's demonstration. Two policemen were arrested in connection with Lembarki's death, and the Moroccan government began an investigation, which remained pending at year's end.

The Moroccan Association of Human Rights (AMDH) reported that the trials of the demonstrators in the May disturbances were unfair because charges were never clearly articulated, lawyers were denied access to their clients, and allegations of torture by Moroccan authorities were not investigated.

On December 9, Human Rights Watch (HRW) sent an open letter to Moroccan King Mohammed VI concerning the detention of seven human rights activists. The activists were Ali Salem Tamek, Mohamed El Moutaouakil, Houssein Lidri, Brahim Noumria, Larbi Messaoud, Aminatou Haidar, and H'mad Hammad. The letter also raised concerns about seven other young detainees. While the 14 had been arrested following the May through June demonstrations, on October 30, during a subsequent demonstration, police arrested Brahim Dahane, the fifteenth person mentioned in the HRW letter. HRW visited Laayoune, examined case files of the defendants, and concluded that "little if any of the evidence implicating them in inciting, directing or participating in the violence (that is, the earlier demonstrations) appears to be credible."

On December 14, the Laayoune Court of Appeal sentenced the seven human rights activists to jail terms ranging from seven months to two years. AI reported that the proceedings lasted only a few hours and that the defendants were not given the opportunity to challenge alleged verbal confessions that police provided to the court. The defendants said that any alleged confessions were extracted only after torture or ill-treatment while they were in detention. Those sentenced were Ali Salem Tamek, Mohamed El Moutaouakil, Houssein Lidri, Brahim Noumria, Larbi Messaoud, Aminatou Haidar, and H'mad Hammad. Seven others also were sentenced in the same trial.

After being held for 48 hours following his arrest on October 30, police reportedly charged Brahim Dahane with belonging to an unauthorized organization, the Sahrawi Association for the Victims of Human Rights Abuses, of which he is the president. Dahane has not yet been brought to trial. AI considered Dahane and the other seven defendants to be prisoners of conscience.

Some prisoners arrested after the May demonstrations launched sporadic hunger strikes; the Polisario claimed the figure was 37. While initially the Moroccan government said that only seven prisoners were on a hunger strike, it later stated that all of the prisoners participated. The hunger strike ceased in September, but it resumed sporadically in ensuing months.

AMDH wanted the government to negotiate with those who had launched the hunger strike.

Following the May demonstrations, Spanish delegations composed of journalists and regional politicians attempted to visit the Western Sahara. Moroccan authorities, who charged that the visits were politically motivated, prevented several delegations from disembarking from their aircraft. Morocco embarked on negotiations with Spain to try to agree on guidelines for visits to the territory.

Spanish journalists based in Morocco had regular access to the territory, although they complained of surveillance and harassment by the Moroccan authorities.

In April Moroccan authorities detained three Norwegian journalists in Laayoune. The authorities interrogated and deported two of the journalists, who were covering a demonstration. Prior to the trial of 16 teenagers who participated in the May demonstrations in Laayoune, five Norwegians traveled overland to Laayoune from Morocco to show support for the teenagers, but Moroccan authorities stopped them and escorted them back to Morocco.

In recent years, there were no reports of politically motivated disappearances in the territory under Moroccan administration. Forced disappearance of individuals who opposed the Moroccan government and its policies occurred over several decades. In 1997 the government pledged that such activities would not recur and agreed to disclose as much information as possible on past cases. Authorities stated that they had released information on all 112 confirmed cases of disappearance. However, human rights groups and families claimed hundreds more cases, many from the territory. International human rights organizations estimated that there were between one thousand and fifteen hundred disappearances of Sahrawis in the territory, although conditions in the territory prevented confirmation of this figure.

The disappeared were both Sahrawis and Moroccans who challenged the government's claim to the territory or other government policies. Many reportedly were held in secret detention camps. At year's end Moroccan families did not have any information regarding their missing relatives, many of whom disappeared over 20 years ago.

In 2000 through the Arbitration Commission of the Royal Advisory Council on Human Rights (CCDH), the government began distributing preliminary compensation payments to Sahrawis or the family members of those Sahrawis who had disappeared or been detained. The compensation was for urgent medical or financial needs. The government also announced that more compensation could be distributed pending the results of a review of petitions by Sahrawi claimants.

In January 2004 the Equity and Reconciliation Commission (IER) continued the work started by the CCDH to settle serious violations of human rights. The IER's mandate was to provide reparations to families of disappeared persons and other victims, to restore the dignity of victims, to provide for their rehabilitation and medical care, and to give a thorough accounting of the events that led to human rights abuses and of the circumstances of the crimes themselves. The appointed members of the IER included human rights activists, and the government designated Driss Benzekri, a former political prisoner, as commission president. On November 30, at the conclusion of its work, the IER had received 22 thousand applications, a number of them having to do with the territory. Investigative teams from the IER visited the territory on several occasions.

Under agreement with the IER, participants in the hearings in Morocco did not disclose the names of persons they considered responsible for violations. The IER heard from 16,861 victims, families of victims, and witnesses of human rights violations. The IER held public commission hearings in Morocco and planned for hearings in the territory, but the IER did not hold the latter hearings due to internal IER time constraints compounded by demonstrations in the territory. The IER identified over 693 graves through the testimony and the documentation phase of its work. The Moroccan government identified approximately 63 of the graves as Sahrawis; however, AMDH said that many more Sahrawis died during detention.

On December 1, the IER submitted to the king the final report, which assessed whether victims should be given compensation, calculated how much compensation they should receive, and outlined recommendations on how to prevent similar abuses in the future. The report delineated the reasons for the violence, as well as institutional responsibilities for the violations committed between 1956 and 1999. The king decreed that the entire report would be made public.

Both the 1991 settlement plan and the 1997 Houston Accords called for the Polisario to release all remaining Moroccan prisoners of war (POWs) after the parties completed the voter identification process. In 1999 MINURSO completed the provisional list of eligible voters. The Moroccan government continued to contest the identification process. The Western Sahara, a traditionally nomadic tribal area, continued to experience migration and emigration following 1975. Tribal members who left the region are eligible to vote, but their direct heirs are not. The Moroccan government disagreed with this determination.

On August 18, the Polisario released 404 Moroccan POWs, which accounted for the remaining Moroccan POWs. The Polisario had released two POWs in poor health on January 22; one subsequently died. On February 2, two POWs escaped, while on July 14, another four POWs escaped.

There were credible reports from international organizations, Moroccan non-governmental organizations (NGOs), and from the released POWs themselves, that Moroccan POWs suffered serious physical and psychological health problems due to their prolonged detention, abuse, and forced labor.

According to the Polisario, the government continued to withhold information on approximately 150 Polisario missing combatants and supporters whom the Polisario listed by name. Morocco formally denied that any Sahrawi former combatants remained in detention. The International Committee of the Red Cross (ICRC) continued to investigate such Polisario claims in addition to Moroccan claims that the

Polisario had not fully divulged information on the whereabouts of 213 Moroccan citizens. In a few cases, the ICRC found that individuals on the Polisario list were living peacefully in Moroccan territory or in Mauritania.

Morocco and the Polisario disputed the number of persons in the refugee camps. The Moroccan government continued to claim that the Polisario detained 45 to 50 thousand Sahrawi refugees against their will in camps near Tindouf, Algeria. The Polisario claimed that refugee numbers at Tindouf were much higher, but it denied that any refugees were held against their will. The UN High Commissioner for Refugees (UNHCR) and the World Food Program appealed regularly to donors for food aid, and distributed it to a population of approximately 155 thousand in the refugee camps, although the UN reduced the planning figure to 90 thousand, partially in response to concerns about inflated refugee numbers.

In August 2004 the UNHCR completed a six-month program of confidence building measures, highlighted by family visits that brought 12 hundred persons to meet for five days with long-separated relatives. Most participants were Sahrawi refugees from the refugee camps in Algeria visiting relatives in the Moroccan-controlled territory. Approximately 19 thousand Sahrawis registered to participate in the program, and the UNHCR transported 1,476 persons for visits. The confidence-building measures also included telephone exchanges between relatives in the territory and refugee camps in Algeria. The program was interrupted in August for lack of funding but resumed briefly in November and December.

The Moroccan government generally restricted freedoms of expression, assembly, and association. In late November the government blocked several Sahrawi-based Internet websites. Sahrawi activists claimed that they were unable to form political associations or politically oriented NGOs. The Moroccan authorities claimed that they did not intervene in the demonstrations in Laayoune and Dakhla until the demonstrators became violent and destroyed personal property.

In 2003 according to France-Liberté, a French human rights organization, the Polisario restricted freedoms of expression, assembly, association, and movement in its camps near Tindouf.

Due to continuing Moroccan control of the territory, the laws and restrictions regarding religious organizations and religious freedom were the same as those in Morocco.

The Moroccan government and the Polisario restricted movement in areas regarded as militarily sensitive.

Sahrawis continued to have difficulty obtaining Moroccan passports. The government issued activist Ali Salem Tamek a passport and allowed him to travel abroad, but he was later arrested for his role in the demonstrations. The government prevented Sahrawi nationalists who had been released from prison in Morocco from living in the disputed territory.

The law imposes stiff fines and prison terms on those, including government officials, involved in or failing to prevent trafficking in persons. The territory was a transit region for traffickers of persons.

There was little organized labor activity. The same labor laws that apply in Morocco apply in the Moroccan-controlled areas of the territory. Moroccan unions were present in the areas controlled by Morocco, but they were not active. The Polisario-sponsored labor union, Sario Federation of Labor, also was not active because the Polisario-controlled territory did not contain major population centers or economic activity, apart from nomadic herding.

There were no strikes, other job actions, or collective bargaining agreements during the year. Most union members were employees of the Moroccan government or state-owned organizations. They were paid 85 percent more than their counterparts in Morocco as an inducement to relocate to the territory. The Moroccan government exempted workers from income and value-added taxes.

Moroccan law prohibited forced or bonded labor, including by children, and there were no reports that such practices occurred.

Regulations on the minimum age of employment were the same as in Morocco. Child labor did not appear to be a problem.

The minimum wage and maximum hours of work were identical to those in Morocco. However, in practice, during peak periods, workers in some fish processing plants worked as many as 12 hours per day, 6 days per week, which was well beyond the 10-hour day, 44-hour week maximum stipulated in the Moroccan code of labor. Occupational health and safety standards were the same as those enforced in Morocco and were rudimentary, except for a prohibition on the employment of women in dangerous occupations.



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## OMAN

The Sultanate of Oman is a hereditary monarchy with a population of approximately 2.3 million people, ruled by Sultan Qaboos Al Bu Sa'id. In 1996 the Sultan, who acceded to the throne in 1970, issued a royal decree promulgating a "Law of the State," characterizing the country as "Arab" and "Islamic." The law can only be amended by royal decree. The country has no political parties; however, the 83-member Consultative Council (Majlis Al-Shura) is a representative advisory institution whose members in 2003 were elected directly, freely, and fairly by all adult citizens, except military and security personnel. With 59 members appointed by the sultan, the State Council (Majlis Al-Dawla), along with the Consultative Council, forms the bicameral body known as the Council of Oman (Majlis Oman). The civilian authorities maintained effective control of the security forces.

Although the government respected a number of rights, many human rights problems remained. The following human rights problems were reported:

- inability of citizens to change the government
- arbitrary arrest
- arbitrary and incommunicado detention
- restrictions on the exercise of civil liberties—freedom of speech (including academic freedom), the press, assembly, and privacy
- limitations on the right of association, particularly for human rights groups
- restrictions on religious freedom
- discrimination and domestic violence against women
- restrictions on labor rights

The government improved workers' rights with the continued implementation of the 2003 Labor Law. The most significant labor development was the establishment of 25 worker representative committees and the independent election of their leadership. Newly elected committees also exercised their right to strike on at least four occasions.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

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

*c. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*—The law prohibits such practices, and the government generally respected these provisions in practice; however, there were accusations of police employing unnecessary force to disband protestors and of investigative judges threatening physical harm to uncooperative detainees. The government dismissed or demoted police found guilty of using excessive force.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and no international human rights observers requested visits during the year. The government permitted visits by local religious groups.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention. There were isolated reports of police arrest and interrogation that constituted incommunicado detention.

*Role of the Police and Security Apparatus.*—The Royal Office, whose head holds cabinet status, controls internal and external security and coordinates all intelligence and security policies. Under the Royal Office, the Internal Security Service investigates all matters related to internal security, and the Sultan's Special Force has limited border security and antismuggling responsibility. The Royal Oman Police (ROP), whose head also holds cabinet status, performs regular police duties, provides security at airports, serves as the country's immigration agency, and operates the coast guard. The Ministry of Defense, and in particular the Royal Army of Oman, also has limited domestic security responsibilities. Corruption and impunity were not perceived to be widespread problems. There were no instances in which the police failed to respond to societal violence. The ROP's Directorate General of Inquiries and Criminal Investigation is charged with investigating allegations of police abuse, and its findings are turned over to the Director General of Human Resources for disciplinary action.

*Arrest and Detention.*—The police are not required to obtain warrants prior to making an arrest. Within 48 hours of arrest, the police must either release the accused person or refer the matter to the public prosecution. The public prosecution must then, within 24 hours, either formally arrest or release the person. Authorities must obtain court orders to hold suspects in pretrial detention. Judges may order detentions for 14 days to allow investigation and may grant extensions if necessary. The authorities post the previous week's trial results near the magistrate court building. There was a functioning system of bail.

The police sometimes failed to follow legal procedures. In some instances, police handling of arrests and detentions constituted incommunicado detention. The police did not always inform detainees of the charges against them, nor did they always notify a detainee's family or, in the case of a foreign worker, the worker's sponsor, of the detention. At times notification was made just prior to the detainee's release. Public attorneys were provided to indigent detainees. The police did not always permit attorneys and family members to visit detainees, nor always permit attorneys to be present during questioning of the accused, as provided by law. Judges occasionally interceded to ensure that security officials allowed such visits.

According to Amnesty International (AI), there was one political detainee during the year. On July 12, the government held incommunicado writer and human rights activist Abdullah Al-Riyami on accusations of instigating civil unrest, urging people to change the laws, committing acts prejudicial to public order, encouraging dissent, damaging the unity of the nation, and committing treason for contacting international human rights organizations while expressing views critical of the government. International nongovernmental and human rights organizations criticized the government for his detention. Al-Riyami did not have access to family or a lawyer; police authorities released him on July 20 without filing charges.

*Amnesty.*—On June 9, the sultan pardoned 31 Ibadhi Muslim citizens convicted on May 2 of belonging to a secret organization and plotting to overthrow the government (see section 2.b.). On July 18, the sultan also pardoned 206 citizens and 162 foreigners convicted of various crimes. On November 17, the sultan pardoned an additional 232 citizens and 43 foreigners convicted of crimes.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the various courts were subordinate to the sultan. The sultan appoints all judges, who serve at his discretion through royal decree. The sultan can act as a court of final appeal and intercede in cases, such as those concerning national security. However, there were no reported instances in which the sultan overturned a decision of the magistrate courts.

The Ministry of Justice administers all courts. The judiciary is composed of magistrate courts and Shari'a courts. The magistrate court system is composed of courts of first instance, courts of appeal, and the Supreme Court. There are 42 courts of first instance located throughout the Sultanate that hear civil, criminal, and commercial cases. A single judge presides over each of these courts, but the eight courts in the largest governorates also have a panel of three judges with jurisdiction over special cases. The six courts of appeal are presided over by three judges. The Supreme Court standardizes legal principles, reviews decisions of lower courts, and monitors judges in their application and interpretation of the law. Any appeals beyond the Supreme Court must be made directly to the sultan, who has the power to pardon or reduce sentences but cannot overturn a court verdict.

Shari'a courts have jurisdiction over matters of family law and personal status, such as divorce and inheritance. Appeals to decisions of Shari'a courts are brought before courts of appeal.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, there was one reported case of an individual's lawyer receiving little time to review the case, insufficient access to government-held documents regarding the case, and no opportunity to rebut. According to the defendant, only one relative was allowed in the courtroom, and the proceedings were closed.

The General Prosecutor's Office operates independently within the Ministry of Justice. All felonies are adjudicated at the central magistrate court by a panel whose rulings are final except for those in which the defendant is sentenced to death. The criminal appeals panel is composed of the president and vice-president of the magistrate court, and two judges. This panel hears appeals of rulings made by all courts of first instance.

A royal decree established criminal rules of procedure for criminal cases before the court, providing rules of evidence, procedures for entering cases into the criminal system, and detailing provisions for a public trial. In criminal cases, the police provide defendants with the written charges against them and defendants have the

right to present evidence and confront witnesses. The prosecution and the defense question witnesses through the judge in court. The law provides for the presumption of innocence and the right to counsel. For defendants facing prison terms of three years or more, the law provides legal defense. Judges often pronounced the verdict and sentence within one day of the completion of a trial. Those convicted may appeal jail sentences longer than 3 months and fines over the equivalent of \$1,250 (480 rials) to a 3-judge panel.

The administrative court, under the authority of the diwan of royal court, reviews complaints against the misuse of governmental authority. It has the power to reverse decisions made by government bodies and can also award compensation.

The state security court tries cases involving national security and criminal matters that require expeditious or especially sensitive handling. Two royal decrees in 2003 gave the court a legal basis. The security court procedures mirror closely those applicable elsewhere in the criminal system. The sultan has exercised his powers to extend leniency, including cases involving state security.

Ministry and security personnel are subject to a military tribunal system of justice. Military officials were reportedly tried in secret military tribunals for alleged involvement with a secret organization and plotting to overthrow the government. However, all those convicted were released in the month following the trials (see section 1.d.).

*Political Prisoners.*—On July 13, former parliamentarian Taybah Al-Ma'wali received a one-and-a-half year sentence for insulting a public official and using a mobile phone to send allegedly slanderous and libelous text messages, which criticized the government's arrest of Ibadhi activists. The government did not permit access by family during the detention and trial. AI and Reporters Without Borders voiced strong objections to the detention, trial, and conviction. Both domestic and international supporters petitioned the government for the activist's release. On August 7, a court of appeals reduced Al-Ma'wali's sentence to six months in prison.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for broad governmental discretion, which the government utilized in practice.

The law does not require police to obtain search warrants, although the police often obtained them; however, the public prosecutor, not the court, issues them. The government eavesdropped on both oral and written communications, including mobile phones, e-mail, and Internet chat room exchanges (see section 1.e. and 2.a.). Citizens were required to obtain permission from the Ministry of Interior to marry foreigners, except nationals of the Gulf Cooperation Council (GCC) countries, and permission was not granted automatically. Marriages to foreigners may lead to denial of entry of the foreign spouse into the country and prevent a legitimate child from claiming citizenship rights.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press "within the limits of the law"; however, the law itself and government practice generally restricted freedom of speech and of the press. The law prohibits criticism of the sultan in any form or medium, or the publishing of "material that leads to public discord, violates the security of the state, or abuses a person's dignity or his rights." The government charged former parliamentarian Taybah Al-Ma'wali with violating the Telecommunications Act based on her mobile phone messages that criticized the government (see section 1.e.).

Journalists and writers generally exercised self-censorship due to fear of government reprisal. Various media companies reportedly refused to publish articles of several journalists. The authorities tolerated some degree of criticism of government officials and agencies, particularly on the Internet; however, such criticism rarely appeared in the mass media, and libel laws and concerns for national security were used as grounds to suppress criticism of government figures and politically objectionable views (see section 1.e.).

Censors enforced the Press and Publication Law, which authorizes the government to censor all domestic and imported publications. Ministry of Information censors may act against any material regarded as politically, culturally, or sexually offensive. Editorials generally were consistent with the government's views, although the authorities tolerated some criticism regarding foreign affairs issues. Citizens were publicly critical of GCC policies, which the country participates in determining.

There were six daily newspapers: three in Arabic and three in English. Arabic language dailies *Al-Watan* and *Shabiba* as well as the English dailies *Times of Oman* and *Oman Tribune* were privately owned. There were 31 state-owned and privately owned magazines published in the country.

The government owned three radio stations and one television station, which generally did not air politically controversial material. In August 2004 the government promulgated a new law allowing private radio and television companies. On October 10, the Ministry of Information approved licenses for one private television station and three private radio stations. Foreign broadcast information was accessible to those with the financial resources to obtain satellite dishes.

Customs officials confiscated videocassette tapes and erased offensive material. Such tapes may or may not have been returned to their owners. Government censorship decisions were changed periodically without any stated reason. The confiscation of books and tapes at the borders from private individuals and restrictions on popular novels reportedly eased.

The appropriate government authority, the police, or a relevant ministry must approve public cultural events. Most organizations avoided controversial issues due to belief that the authorities might not approve their events.

The government's national telecommunications company made Internet access available for a fee to citizens and foreign residents. However, it blocked numerous Web sites that it considered pornographic, politically sensitive, or competitive with local telecommunications services. As use of the Internet for expressing views normally not permitted in other media grew, the government took additional measures to monitor and censor it. The government placed warnings on Web sites that criticism of the sultan or personal criticism of government officials would be censored and could lead to police questioning, which increased self-censorship.

The government restricted academic freedom, particularly regarding publishing or discussing controversial matters, such as domestic politics. Professors could be dismissed if their work exceeded government boundaries; in November one professor was dismissed from Sultan Qaboos University.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for a circumscribed freedom of assembly “within the limits of the law,” and the government restricted the exercise of this right in practice. Prior government approval was necessary for all public gatherings. The authorities enforced this requirement with rare exceptions, such as demonstrations by teachers protesting the lack of promotions and expatriate workers protesting non-payment of back wages. On May 3, the police used unnecessary physical force to disband a demonstration held in connection with the convictions of 31 Ibadhi Muslims. Dozens of protestors were arrested but reportedly not charged; they were released after several days.

*Freedom of Association.*—The law provides for freedom of association “for legitimate objectives and in a proper manner.” The government limited this freedom in practice, using its ability to prohibit associations whose activities were deemed “inimical to the social order.” In January the government denied a request to establish a domestic human rights center (see section 4.). The law states that the Ministry of Social Development must approve the establishment of all organizations and their by-laws; however, some social or charitable groups were allowed to function without formal registration. The government used licensing to control the political environment and did not license groups regarded as a threat to the predominant social and political views or the interests of the country. Associations were not permitted to engage in politics, form parties, or interfere with religious matters (see section 3.). Formal registration of nationality-based associations was limited to a maximum of one association for any nationality.

On May 2, the government convicted 31 Islamists for establishing an illegal organization for the reported purpose of overthrowing the sultan and establishing an *Imamate* (a country governed by a Muslim scholar). Two men received 7-year sentences, one received a 10-year sentence, and the remaining received prison terms ranging from 7–20 years.

During the year nongovernmental organization (NGO) leaders received letters from the government threatening sanctions unless their organizations completed a complicated and time-consuming registration process. There was a total of 16 registered NGOs; 3 were registered during the year. The average time required to register an NGO was at least two years.

The Law of National Associations provides for the establishment of associations within the limited spheres of women, children, the elderly, persons with disabilities, and special groups such as economic, consumer protection, and environmental associations. There were 42 government-approved women's associations, some of which received limited government funding or in-kind support, while others were self-funded.

*c. Freedom of Religion.*—The law provides for freedom of religion within the limits of the law; however, the government generally restricted this right in practice. The

law provides that Islam is the state religion and that Shari'a is the source of all legislation. Most citizens were Ibadhi or Sunni Muslims, with some Shi'a and a few non-Muslim citizens. The government permits worship by non-Muslim residents. All religious organizations must be registered with the government, and some of their activities were restricted.

Non-Muslims were free to worship at churches and temples built on land donated by the sultan. Although the law does not prohibit proselytizing, the government prohibited non-Muslims from proselytizing Muslims, while proselytizing of non-Muslims by Muslims was allowed. The government also prohibited non-Muslim groups from publishing religious material, although religious material printed abroad could be brought into the country.

Members of all religions and religious groups were free to maintain links with members abroad and undertake foreign travel for religious purposes. Foreign clergy were allowed to visit religious groups.

The government required all imams to preach sermons within the parameters of standardized texts distributed monthly by the Ministry of Religious Affairs and Endowments. The government monitored mosque sermons to ensure that imams did not discuss political topics or instigate religious hatred or divisions and stayed within the state-approved interpretation of Islam. Imams may be suspended or dismissed for exceeding government boundaries; there were no reported suspensions or dismissals during the year. The government also monitored sermons of non-Muslim clergy.

*Societal Abuses and Discrimination.*—The government does not officially collect or publish statistical data on the religious affiliation of the population. However, there were no reports of societal violence, harassment, discrimination, or anti-Semitic acts against members of religious groups.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law does not provide for these rights; however, the government generally respected these rights in practice. The law prohibits exile, and there were no reported cases during the year.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, although the country is not a state party to either the convention or the protocol. In practice the government provided protection against *refoulement* but did not routinely grant refugee or asylum status. The government did not accept refugees for resettlement during the year.

The law prohibits the extradition of political refugees, and there were no reports of the forced return of persons to a country where they feared persecution. The issue of temporary protection for refugee and asylum-seekers did not arise during the year. Tight control over the entry of foreigners into the country effectively limited refugees and prospective asylum seekers from entering. Illegal immigrants numbering in the thousands, primarily from Iran, Pakistan, and Afghanistan were apprehended by the ROP and the Armed Forces. The detainees were held in special detention centers until their deportation could be arranged. The government sought advice from the UN High Commissioner for Refugees.

### *Section 3. Respect for Political Rights: Citizen's Right to Change Their Government*

The law does not provide citizens with the right to change their government. The Sultan retains ultimate authority on all foreign and domestic issues.

*Elections and Political Participation.*—The law does not provide for political parties or direct elections, except for the Consultative Council. Citizens 21 years or older (except military and security personnel) may vote. In 2003 approximately 74 percent of registered voters, or approximately 194 thousand persons, turned out. The government did not allow candidates to advertise or actively campaign for office. A total of 506 candidates, including 15 women, competed in generally free and fair elections for the 83 council seats. Of the 15 female candidates, 2 were elected. In 2003 a royal decree also reappointed the incumbent president of the Consultative Council, although the council elected two vice-presidents from within its membership. The sultan did not influence the nomination of the consultative council candidates.

The Consultative Council serves as a conduit of information between the citizens and the government ministries; however, it has no formal legislative powers. Government ministries or the cabinet author all draft legislation. No serving government official is eligible to be a consultative council member. The Consultative Council may question government ministers in public or in private, review all draft laws

on social and economic policy, and recommend new laws or legislative changes to the Sultan, who makes the final decision.

The State Council serves as an advisory body that reviews draft laws proposed by the government, and presents its opinions to the sultan and his ministers in cooperation with the Consultative Council. The State Council president is appointed by royal decree and its two vice-presidents are elected from within its membership. During the year the membership of the State Council increased from 58 to 59 members, and included 9 women. The State Council and the Consultative Council together form the Council of Oman. In 2003 a royal decree extended the term of office to four years for Council of Oman members.

Citizens had indirect access to senior officials through the traditional practice of petitioning their patrons, usually the appointed local governor, for redress of grievances. Successful redress depended on the effectiveness of a patron's access to appropriate decision makers. Decisions of government ministers can be contested in the administrative court.

There were 11 women in the 142-seat Council of Oman. There were 4 female ministers appointed to the 42-member cabinet.

The Council of Oman and the Cabinet of Ministers are composed of representatives from a variety of linguistic, religious, racial, and other backgrounds.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year. During the year the International Auditing Bureau reported 31 individuals, including government officials, were accused of bribery, forgery, misuse of job position, and divulging professional secrets. They received various jail sentences and fines.

The law does not provide public access to government information. All royal decrees and ministerial decisions are published in the *Official Gazette* for public access.

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

The government restricted NGO activity. There were no registered domestic human rights NGOs and no government-controlled or autonomous human rights entities in the country. In January the government denied a request from a human rights activist to establish a domestic human rights center. Activists involved in foreign-registered organizations were subject to the threat of arrest or loss of government employment or scholarships. No association may receive funding from an international group without government approval. Individuals convicted of doing so could receive up to 6 months in jail and a \$1,310 fine (500 rials).

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

The law prohibits discrimination against citizens on the basis of sex, ethnic origin, race, language, religion, place of residence, and social class. However, the government did not effectively enforce it. Societal and cultural discrimination based on gender, race, social class, and disability existed.

*Women.*—The law does not specifically address domestic violence against women; however, Shari'a prohibits all forms of physical abuse. There was no evidence of a pattern of spousal abuse, although allegations of such abuse in Shari'a courts were reportedly common. Battered women may file a complaint with the police but often sought family intervention to protect them from violent domestic situations. Likewise, families sought to intervene to keep such problems from public view. Some employers reportedly sexually abused domestic servants. There were no government programs for abused women.

The law prohibits rape, and the government enforced the law effectively. Approximately 132 persons were convicted of rape during the year.

There is no law prohibiting female genital mutilation (FGM); however, doctors in hospitals were not permitted to perform the procedure. Local women primarily performed FGM in villages. According to a UN Children's Fund (UNICEF) and World Health Organization study, FGM was broadly socially accepted. The government addressed the issue in its national health planning and allowed the July publication of a feature magazine article discussing the practice and its potential harm to women.

Prostitution was illegal and was not widespread due to strict cultural norms and immigration controls.

While progress has been made in changing laws and attitudes, women continued to face many forms of social discrimination.

Illiteracy among older women hampered their ability to own property, participate in the modern sector of the economy, or inform themselves of their rights. Women

may own property. However, government officials applied different standards to female applicants for housing loans, resulting in fewer approvals for women.

Aspects of Islamic law and tradition as interpreted in the country also discriminated against women. Shari'a favors male heirs in adjudicating inheritance claims. Many women were reluctant to take an inheritance dispute to court for fear of alienating the family. Women married to noncitizens may not transmit citizenship to their children.

Women have equal opportunities for education. In addition, female students represented 63 percent of the national undergraduates studying abroad. A 2003 UNICEF report praised the country's achievements in closing the gender gap in education. Educated women have attained positions of authority in government, business, and the media. Approximately 33 percent of all civil servants were women. In both the public and private sectors, women were entitled to maternity leave and equal pay for equal work. The government, the country's largest employer of women, observed such regulations, as did many private sector employers. However, many educated women still faced job discrimination. The Ministry of Social Development is the umbrella ministry for women's affairs. The ministry provided support through the Oman Women's Association and local community development centers.

*Children.*—The government has declared education, health, and general welfare of children a national priority. Primary school education for children, including non-citizen children, was free and universal but not compulsory. In 2003–2004 the ratio of female to male enrollment was equal in primary education. Primary school enrollment was 65 percent. Most children attended school through secondary school. The government provided free health care for all children up to age six. The infant mortality rate continued to decline, and comprehensive immunization rates rose. There were no public reports of violence against children; however, the government called publicly for greater awareness and prevention of child abuse. FGM was performed in some cases on girls aged one to nine years old (see section 5.).

There were no reports of child prostitution. Child labor existed in the informal, subsistence, and family business sectors of the economy; however, it was not a problem in the organized labor market (see section 6.d.).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, trafficking crimes are prosecuted under the criminal code and those convicted face three to five years in prison.

While one NGO reported unsubstantiated claims of evidence near the Buraimi Oasis that foreign children were trafficked to the country for training as camel jockeys, the local UNICEF representative concurred with the government's denial that foreign children were trafficked and employed as camel jockeys. According to a December 20 statement from the International Labor Organization, child camel jockeys were no longer an issue in the country.

The government operated a 24-hour hot line to register complaints of potential victims and also worked with foreign governments to prevent trafficking in persons.

*Persons with Disabilities.*—There was no government discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

The Ministry of Social Development is responsible for protecting the rights of persons with disabilities, and it implemented legislation during the year to ensure access to buildings for persons with disabilities. The government actively enforced the law through the construction permit process. The labor law stipulates that enterprises employing more than 50 persons should have at least 2 percent of the jobs reserved for persons with disabilities; however, this regulation was not widely enforced. There was 1 government-sponsored rehabilitation center in the capital area and 17 private rehabilitation centers throughout the country. A few persons with disabilities, including blind persons, worked in government offices. Persons with disabilities generally were not charged for physical therapy and prosthetics.

*Other Societal Abuses and Discrimination.*—While there were no reports of official discrimination against persons with HIV/AIDS, societal attitude in the country remained fearful towards persons with the disease. A "Peer Education" pilot project promoted by the Ministry of Health and initiated in the Muscat area attempted to improve awareness and education on the disease among youth. In 2003 a toll-free AIDS hot line was inaugurated, and it fielded two thousand calls per month during the year. The hot line provided information on various sexually transmitted diseases.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 2003 labor law provides workers the right to form a representational committee with the goal of taking care of their interests,

defending their rights, and representing them in all matters related to their affairs. There is an unofficial estimate that 25 committees representing 9.1 percent of wage-earners in the private sector have been registered since 2004. The provisions of the labor law apply to women and foreign workers. The law does not grant members of the armed forces, public security institutions, employees of the state, and domestic workers the right to form representational committees. Conditions of employment of these categories of workers are covered by the Civil Service Law and individual ministerial decrees.

Although any establishment may vote to elect a representational committee by secret ballot, committee leadership was restricted to employees who can speak and write Arabic. The Ministry of Manpower has final decision on committee registration and required prior notification and copies of agendas for committee meetings. Membership in the administrative body may be terminated if members "commit any act that causes material or moral harm to the committee or the establishment or its workers or the public interest of the Sultanate." In addition, committees may not accept grants from noncitizens and may not travel outside the country in an official capacity without approval from the Ministry of Manpower.

On May 4, the government appointed a Main Representative Committee (MRC), a national-level organization, composed of elected members from the registered committees and represented all workers at international conferences. During the year the MRC worked with the independent committees and the Ministry of Manpower to identify areas of concern and strengthen implementation of the labor law.

*b. The Right to Organize and Bargain Collectively.*—The labor law does not address strikes or explicitly provide for the right to collective bargaining; however, the law details procedures for dispute resolution and removes a 1973 prohibition on strikes. Wages are set through individual contracts as well as sector and expatriate embassy minimum wage requirements. Representative committees are not prohibited from striking or collective bargaining. Although labor unrest was rare, there were four reported strikes during the year, the most significant of which closed the largest seaport for two days.

Domestic employees have the right to end a contract if they prove that employers or family members assaulted them. There were no available statistics on the number of complaints filed by domestic workers at year's end. The law also stipulates that employees should be paid within seven days of the end of each month, receive free food, accommodation, and medical treatment.

Work rules must be approved by the Ministry of Manpower and posted conspicuously in the workplace by employers of 15 or more workers. Government inspectors performed random inspections to enforce implementation of these regulations; there were more than 4,300 inspections in 2004. Similarly, any employer with 50 or more workers must establish a grievance procedure. All employees, including foreign workers, have the right to take disputes to the Labor Welfare Board (LWB) and are encouraged to contact the Ministry of Manpower's 24-hour hot line to report labor abuse or violations. The LWB attempts to mediate disputes between employers and employees. In some cases, worker representatives were able to file collective grievances. If a settlement cannot be reached, the parties may seek recourse in the appropriate courts.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or bonded labor, including of children, and the government generally enforced this prohibition.

At times foreign workers were reportedly placed in situations amounting to forced labor. Employers sometimes withheld documents that released workers from employment contracts and allowed them to change employers. Without such a letter, a foreign worker must continue to work for his current employer or become technically unemployed, and consequently a candidate for deportation.

Many foreign workers were not aware of their right to take such disputes before the LWB. Others were reluctant to file complaints for fear of retribution from unscrupulous employers. In most cases the LWB released the worker from service without deportation and awarded compensation for time worked under compulsion. In addition to reimbursing the worker's back wages, guilty employers were subject to fines. There were no available statistics on the number of disputes filed or resolutions by year's end.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law specifically prohibits forced or bonded labor by children, and there were no reports that the practice was common.

In 2003 the government raised the minimum age for children to work from 13 to 15. For certain hazardous occupations, the minimum employment age is 18. Children 15 to 18 years of age may be employed but cannot work at night, on weekends,



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or holidays. The Ministry of Manpower generally enforced the law; however, in practice enforcement often did not extend to some small family businesses that employed underage children, particularly in the agricultural and fishing sectors.

Child labor did not exist in any formal industry. As a cultural practice, Bedouin children participated in camel racing for their families. In August the government raised the minimum age of camel riders from 12 to 18 years, to rise annually by 1 year until the 18-year minimum is achieved in 2009. However, the initial minimum age was set at 14 years during the year.

*e. Acceptable Conditions of Work.*—The Ministry of Manpower issues minimum wage regulations for various categories of workers. The minimum wage for most citizens is approximately \$260 (100 rials) per month, plus \$52 (20 rials) for transportation and housing. Minimum wage regulations did not apply to a variety of occupations and businesses, including small businesses that employed fewer than five persons, the self-employed, domestic servants, dependent family members working for a family firm, and some categories of manual labor. The minimum wage was insufficient to provide a decent standard of living for a worker and family.

The private sector workweek was 40 to 45 hours and included a rest period from Thursday afternoon through Friday. Government workers have a 35-hour workweek. While the law does not designate the number of days in a workweek, it requires at least one 24-hour rest period per week and mandates overtime pay for hours in excess of 48 per week. Government regulations regarding hours of employment were not always enforced. Employees who worked extra hours without compensation could file a complaint with the LWB; however, the LWB rulings were not binding.

Every worker has the right to 15 days of annual leave during the first year of continual employment and 30 days per year thereafter.

The law states that an employee may remove himself from dangerous work without jeopardy to his continued employment if the employer was alerted to the danger and did not implement corrective measures. All employers were required by law to provide first aid facilities. Employees covered under the Labor Law could recover compensation for job-related injury or illness through employer-provided medical insurance. Inspectors from the Department of Health and Safety of the Directorate of Labor generally enforced the health and safety standard codes. As required by law, they made regular onsite inspections. Companies found guilty of withholding salaries were fined and prohibited from receiving commercial services, such as labor clearances. Such actions resulted in the immediate payment of salaries.

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## QATAR

Qatar is a monarchy governed by the ruling al-Thani family through Emir Sheikh Hamad bin Khalifa al-Thani, who deposed his father in 1995. The population is approximately 800 thousand, of whom approximately 200 thousand are citizens. The emir exercises full executive power based on the influence of religious law, consultation with citizens, and rule by consensus. Shari'a (Islamic law) is the main source of legislation, and the emir generally legislates after consultation with leading citizens, an arrangement institutionalized in the appointed 35-member Advisory Council (Majlis al-Shura) that assists the emir in formulating policy. The new constitution, which came into force on June 6, provides for continued hereditary rule by the emir's branch of the al-Thani family. The constitution provides that, after elections, expected in 2007, the Advisory Council will possess direct legislative power. In April 2003 citizens elected all 29 members of an advisory Central Municipal Council whose members serve a four-year term. While the elections were generally regarded as free and fair, only 30 percent of eligible voters participated. The civilian authorities generally maintained effective control of the security forces.

Although there were improvements in a few human rights areas, serious problems remained and new ones emerged. The following human rights problems were reported:

- restriction of right of citizens to peacefully change their government
- civil liberties: restricted freedoms of speech, press, assembly, and association
- limited freedom of religion
- government revocation of citizenship
- government corruption and lack of transparency
- legal discrimination against women
- trafficking in persons

- severely restricted worker rights

The new constitution contains human rights provisions, although their practical effect had not come fully into play since most provisions depended on implementing still-ongoing legislative and institutional changes. The new labor law, which came into effect on January 6, expands and protects some workers' rights for citizens; however, the law prohibits noncitizen workers from forming labor unions or associations, and it restricts the rights to bargain collectively and to strike. The government addressed one of its problems related to trafficking in persons by legislating a ban on underage camel jockeys, by repatriating approximately 200 underage jockeys, and by opening a shelter for trafficking victims.

#### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture, and there were no reports that government officials employed torture. However, the government administered most corporal punishment prescribed by its interpretation of Islamic law. Amputation was not allowed. Punishments were not administered publicly.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. In previous years the government permitted visits by independent human rights observers; however, no foreign independent human rights observer or media group sought to conduct independent monitoring of prisons or general human rights conditions in the country during the year. The National Human Rights Committee conducted four visits to prisons and detention centers during the year.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions in practice; however, these rights were restricted by Law No. 17 implemented in 2002, which was used to “protect society.” In other cases, the government detained persons, who, after having been stripped of their nationality, lacked legal residence status in the country.

*Role of the Police and Security Apparatus.*—The Ministry of the Interior controls the police forces, which include the coast guard and border police, fire department, and immigration authorities. They generally were effective, and corruption and abuse of power were minimal. The civilian intelligence service, Qatari State Security, reported directly to the emir and performed internal security investigations, gathered intelligence, and had primary responsibility for sedition and espionage cases.

*Arrest and Detention.*—In practice suspects are charged within 48 hours and must appear before a judge within 4 days of their arrest. The judge may order the suspect released, remanded to custody to await trial, held in pretrial detention pending investigation, or released on bail. Judges may also extend pretrial detention for one week at a time to allow the authorities to conduct investigations. The accused is entitled to legal representation throughout the process. There were no provisions for state-funded legal counsel for indigents. Suspects who were detained in security cases generally were afforded access to counsel; however, they may be detained indefinitely while under investigation.

Law No. 17 is aimed specifically at the “protection of society” and provides official exemption from the prohibition of arbitrary arrest and detention and the code of criminal procedure. The law empowers the minister of interior to detain a defendant for crimes related to national security, honor, or impudence upon the recommendation of the director general of public security. Under this statute, the detention period can range from two weeks to six months. Moreover, that period can be extended up to two years at the discretion of Ministry of Interior officials. The prime minister adjudicates complaints against these detentions.

According to human rights officials, there were three cases of individuals arrested under Law No. 17 during the year. In addition, since June, nine men were held in detention at the central jail due to their nationality being revoked. They were released in September. Their legal status remained pending at year's end.

There were no reported cases of incommunicado detention by the government; however, 14 individuals were held in solitary confinement in relation to the March theatre bombing. By year's end they were released.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, although in practice it is dependent since all judges held their positions at the discretion of the government. As well, approximately half of the judges were foreign nationals dependent on residence permits granted by the civil authorities. The emir appoints all judges based on the recommendation of the Supreme Judiciary Council for renewable three-year terms.

The Adlea (civil law) courts and Shari'a courts were united under the Supreme Judiciary Council in 2003, although there is not a single codified body of law. Since 2002, with the enactment of Law No. 10, general prosecutors have been independent from the authority of the Ministry of Interior. Although the prosecutors report to the emir, he does not interfere in their work.

The law provides for a three-tiered court system: the Courts of First Instance, Appeal, and Cassation. The three courts hear all cases and apply one law based on legal precedence and Shari'a interpretations. The Court of Appeal hears appeals of decisions from the Court of First Instance. The Court of Cassation is the court of final appeal. It comprises of two wings, civil and criminal, with a five-judge panel chaired by a president or deputy.

*Trial Procedures.*—Criminal cases normally were tried within two to three months after suspects were detained. Suspects are entitled to bail, except in cases of violent crime. Foreigners charged with minor crimes can be released to a citizen sponsor, although they are prohibited from departing the country until the case is resolved. Defendants in the civil courts have the right to legal representation. Trials in criminal cases are public and juries are used. Defendants have the right to be present and the right of appeal. Their attorneys have access to government-held evidence relevant to their cases.

Both Muslim and non-Muslim litigants are tried under the unified court system. Court trials are public, but the presiding judge can close the courtroom to the public if the case is deemed sensitive. Lawyers prepare litigants and speak for them during the hearing. Non-Arabic speakers are provided with interpreters. Defendants are entitled to legal representation throughout the trial and pretrial process. In matters involving religious issues, Shi'a and Sunni judges may apply their own interpretations. There is an adequate number of both Shi'a and Sunni judges to accommodate their population and their population respects their decisions.

*Political Prisoners.*—Approximately 27 individuals involved and convicted in the 1996 attempted counter-coup remained in prison.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions in practice. Traditional attitudes of respect for the sanctity of the home and the privacy of women provided protection against arbitrary intrusion for both citizens and noncitizens. Judicial authorities must grant warrants before police may search a residence or business, except in cases involving national security or emergencies. There were no reports of unauthorized searches of homes during the year. The police and security forces were believed to monitor the telephone calls and emails of suspected criminals, of those considered to be security risks, and of selected foreigners.

Citizens must obtain government permission to marry foreigners and to apply for residence permits or citizenship for their spouses. Such permission generally was granted for male citizens. Legally, female citizens were not able to provide citizenship for their husbands.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the government restricted these rights in practice. In addition, journalists continued to self-censor due to social and political pressures when reporting on government policies, the ruling family, and relations with neighboring states.

Although citizens expressed many of their views freely and in public, they avoided discussing sensitive political and religious issues. The much larger foreign population did not express itself as freely or as publicly. During the year the government supported a series of public debates, called the "Doha Debates," addressing political issues of the day, such as separation of mosque and state and regional democratic reform. The government did not prosecute anyone for the expression of views considered offensive.

The five daily newspapers are not state-owned; however, the owners are members of the ruling family or have close ties to government officials. Copies of foreign newspapers and magazines were censored for political and explicit sexual content.

The censorship office in the Qatar Radio and Television Corporation censored materials for pornography and material deemed hostile to Islam, reports on govern-

ment policies, and the ruling family. There were no reports of political censorship of foreign print or broadcast news media or foreign programs.

Customs officials screened and censored imported print and electronic media for items on government policies, pornography, materials deemed hostile to Islam, and the ruling family, but officials no longer blocked the personal importation of non-Islamic religious items (see section 2.c.). The law provides for criminal penalties and jail sentences for libel. All cases involving the media fall under the jurisdiction of the criminal courts.

State-owned television and radio reflected government views. Doha-based Al-Jazeera Satellite Channel focused on coverage and commentary on international news topics. Al-Jazeera and the government both claimed the channel to be independent and free of government influence, but it was government subsidized and avoided critical commentary of government policies. On domestic issues, Al-Jazeera covered local news generally only if there was an international angle to it. Callers to a popular morning show on the state-owned radio frequently discussed topics such as government inefficiency and the lack of responsiveness by various ministries to citizens' needs, such as poor schools and roads, failure to deliver adequate water and sewage services, and problems with the health care system.

The government censored the Internet for religious, political, and pornographic content through a proxy server, which blocked websites containing certain key words and phrases. A user who believed that a site was censored mistakenly could submit the web address to have the site reviewed for suitability.

The law provides for freedom of opinion and scientific research; however, there was no tradition of academic freedom, and instructors at the University of Qatar exercised self-censorship.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—Law No. 18 of 2004 provides for and regulates freedom of assembly; however, a permit is required for such public gatherings. A number of restrictions and conditions must be met in order to acquire a permit, one of which is the permission of the public security director general, whose decision is immune to appeal. The government generally did not allow political demonstrations and there were none during the year. However, a peaceful demonstration following the March theatre bombing was allowed to take place.

*Freedom of Association.*—Law No. 12 of 2004 regulates the right to form private societies and professional associations, and the government severely limited this right in practice. The law allows for the participation of noncitizens in private societies only in cases where their participation is deemed necessary to the work of the society. However, the prime minister must approve their participation, and their number cannot exceed 20 percent of the total membership. Law No. 12 also imposes strict conditions for the establishment, management, and function of these societies and associations. They are prohibited from engaging in political matters and must get approval from the Ministry of Civil Service Affairs and Housing, which can deny their establishment if deemed a threat to the public interest. Also, in the case of professional societies, they must pay approximately \$14 thousand (50,960 riyals) in licensing fees and \$2,700 (9,828 riyals) in annual fees and their permits are valid for only a 3-year period, after which time they must renew their license and again pay the same fees. Since the enactment of Law No. 12, 19 requests to form new associations were submitted to the ministry. Three requests were approved to form a bar association, the Gulf Studies Center, and the Japan-Qatar Friendship Association. The rest were either under revision or has been sent for cabinet approval.

The regulations also prohibit international affiliation of associations.

The government did not allow political parties or international professional organizations critical of the government or of any other Arab government. Security forces monitored the activities of such groups.

*c. Freedom of Religion.*—The constitution provides for freedom of worship in accordance with the law and the requirements of protecting the public order and morality; however, the government continued to prohibit proselytizing of Muslims by non-Muslims and placed some restrictions on public worship. Of the non-Muslim religions, the government permitted only Christians to rent space to hold their services publicly. However, adherents of other faiths may privately practice their religion without harassment.

The state religion is Islam, as interpreted by the conservative Wahhabi order of Sunni Islam. Both Sunni and Shi'a Muslims practiced Islam freely. Shi'a Muslims organized traditional Shi'a ceremonies and performed rites such as self-flagellation in their own mosques. Shi'a Muslims were permitted to build and decorate Shi'a mosques without restrictions.

The government and the ruling family are linked inextricably to Islamic institutions and practices. The Ministry of Islamic Affairs administers the construction of mosques, clerical affairs, and Islamic education for adults and new converts. The Ministry of Education administers Islamic Education in the public schools. The emir participated in public prayers during both Eid holiday periods and personally financed the Hajj journeys of poor pilgrims.

Shi'a Muslims were well represented in the bureaucracy and business community. The government has given legal status to Catholic, Anglican, Orthodox, Coptic, and many Indian Christian denominations; other Christian congregations may request recognition. However, the government does not allow the building of any new places of worship without permission. The government provided congregations with registration numbers that allow them to open bank accounts and sponsor clergy for visas. In May representatives of Christian churches in the country signed an agreement with the government for a 50-year lease on a large tract of property on the outskirts of Doha on which they will erect six churches at their own expense. The property will include a Catholic church, an Anglican church that can also be used by other Protestant denominations, a church to serve 34 Indian Christian denominations, a church for the small but influential Coptic community, and a site for two Orthodox churches, one Greek and one Eastern Rite. In December the foundation stone for the Catholic church was laid.

Converting from Islam was considered apostasy and was technically a capital offense; however, since 1971 there have been no records of prosecution for such a crime or known citizen converts.

The government regulated the publication, importation, and distribution of non-Islamic religious literature; however, individuals were allowed to import Bibles and other religious items for personal use. Government officials only monitored Islamic religious literature and copies of the Koran. Religious materials for use at Christmas and Easter were available readily in local shops. However, Bibles were not available in Arabic.

Islamic instruction was compulsory in public schools. While there were no restrictions on non-Muslims providing private religious instruction for children, most foreign children attended secular private schools. There are no religious private schools.

*Societal Abuses and Discrimination.*—The size of the Jewish community is nominal; many Jews have different nationalities and do not declare their religious affiliation. There were no acts of physical violence against or harassment of Jewish persons; however, on occasions responding to political events and developments in the region, privately owned newspapers carried articles or cartoons with anti-Semitic content or critical of the government of Israel. There have not been any reports of anti-Semitism on the radio and television. Israelis living abroad have appeared on talk shows discussing issues related to the Arab-Israeli conflict.

On June 29 and 30 the Third Conference for Religious Dialogue took place in Doha. For the first time in the country, representatives from Christianity, Islam, and Judaism attended.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice; however, there were some notable exceptions. There were no restrictions on internal travel, except around sensitive military and oil and industrial installations. In general women over age 30 did not require permission from male guardians to travel; however, men may prevent females and children under their guardianship from leaving the country by providing their names to immigration officers at ports of departure. Foreign women employed by the government must obtain official permission to travel abroad when requesting leave. The government did not allow noncitizen custodial parents to take their children out of the country without the permission of the citizen parent. Citizens critical of the government faced restrictions on their right to travel abroad.

The law prohibits forced exile of citizens. However, the government revoked the citizenship of as many as six thousand persons, principally from the Al-Ghufran branch of the Al-Murra tribe, who the government claimed possessed Saudi citizenship. This policy created some "stateless" persons. Upon the revocation of their nationality, these individuals automatically lost their jobs, and they and their families were no longer eligible to receive government benefits. The government maintained that these individuals were holding dual citizenship, a status prohibited under law; however, diplomats pointed out that many other dual nationals in Qatar have not been affected. The government settled approximately one-third of these cases by ei-

ther restoring the citizenship of the affected individuals or by having them legally establish their nationality of origin.

The law provides that citizens have the right to return. Foreigners were subject to restrictions on entry and exit designed to control the size of the local labor force (see sections 6.c. and 6.d.). Foreign women who were married to citizens were granted residence permits and could apply for citizenship; however, they were required to relinquish their foreign citizenship.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. Those attempting to enter the country illegally, including persons seeking asylum from nearby countries, were refused entry. Asylum seekers who were able to obtain local sponsorship or employment were allowed to enter and could remain as long as they were sponsored. In other cases, the government granted residence to individuals deemed political asylum seekers, such as the former ruler of Mauritania, an Algerian political activist, and a number of officials associated with the former Iraqi regime.

The government did not cooperate with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. There were no reports of the forced return of persons to a country where they feared persecution.

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

The constitution does not provide citizens the right to peacefully change their government. The constitution provides for hereditary rule by the emir's branch of the al-Thani family, and legislative authority to be vested in normal circumstances in an advisory council with 30 elected members and 15 members appointed by the emir. The influence of Bedouin tribal traditions was still strong, and the government did not permit political parties or opposition groups to organize.

*Elections and Political Participation.*—The emir exercises most executive powers, including appointment of cabinet members. In 2003 citizens elected all 29 members of the Central Municipal Council, which addresses local issues such as street repair, green space, trash collection, and public works projects. Its role is to advise the Minister of Municipal Affairs and Agriculture. The council does not have the authority to change policy. The elections were generally regarded as free and fair, although only 30 percent of eligible voters participated.

Influence of traditional attitudes and roles continued to limit women's participation in politics; however, there were a number of women serving in public office: Sheikha bint Ahmed al-Mahmoud as Minister for Education; Sheikha Aisha bint Khalifa al-Thani, member of the ruling family, is president of the Election Committee; and Sheikha Ghalia bint Mohammad bin Hamad al-Thani, also a member of the ruling family, is Deputy Chairperson of the National Human Rights Commission and head of the General Authority for Health. There was also one woman serving on the Central Municipal Council. A woman is the president of the University of Qatar. The emir's sister is vice president of the Supreme Council for Family Affairs and also has the rank of minister.

*Government Corruption and Transparency.*—In April three ministerial-level officials were removed from their positions following a scandal related to stock purchases. The scandal involved fraudulently using Qatari identities to buy extra shares of Qatar Gas Transport Company than the official allocation allowed. The three dismissed officials used up to \$500 million (1.82 billion riyals) in loans from various local and regional sources to finance the stock purchases. In October two senior corporate executives were convicted on charges of insider trading in the Doha Stock Exchange. One of the executives convicted is an uncle to the emir's wife and was serving his sentence. In another case, a ranking member of the ruling family, the former chairman of the National Council for Culture, Arts and Heritage was indicted in April for illegal trading and embezzlement.

The law does not provide public access to government information, and little was readily available, particularly statistical data. The government publishes its laws in the official gazette; however, it does not facilitate access to certain economic statistics, demographical data, judicial decisions, or draft legislation being analyzed or considered by the government or advisory council. At their discretion, government officials shared draft legislation with selected industry representatives for comment. The Ministry of Economy and Commerce and the Central Bank provided published materials on laws and procedures for the public, but these efforts were not con-

sistent throughout the government. Individuals and private institutions could request this information from the ministries and the planning council.

The lack of clarity in government procurement, such as the conditions and criteria of the tender, proper notification or explanation concerning bidders' qualifications, remained an issue of concern.

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

Law No. 12, enacted in November 2004, provides for the right to form private independent societies and associations; however, since the law was enacted, no applications have been submitted to establish an independent human rights organization. The National Human Rights Committee (NHRC), established in May 2002, was composed of members of both government ministries and civil society to investigate and improve local human rights conditions. The NHRC held numerous training workshops for government officials, media representatives and university students. Participants included those from the Ministry of Interior, Ministry of Defense, State Security Organization, Public Prosecution, courts, Qatar University, and Al-Jazeera. The NHRC also successfully helped three Arab expatriates to be released from jail. During the year the NHRC visited prisons four times to investigate conditions and issued recommendations to the Ministerial Council. Upon request, the government permitted international governmental organizations to visit the country; however, no such requests were reported during the year.

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

The constitution prohibits discrimination based on nationality, race, language, religion, and disability, but legal, cultural, and institutional discrimination existed based on gender.

*Women.*—According to a local quasi-governmental organization on family issues, domestic violence against women occurred. A total of 318 cases of domestic abuse against women were reported during the year; however, there were no publicized arrests or convictions for domestic violence. The maximum penalty for rape is death. Shari'a provides no punishment for spousal rape.

Foreign domestic servants experienced sexual harassment and maltreatment; however, most domestic servants did not press charges for fear of losing their jobs (see section 6.e.).

The legal system allows leniency for a man found guilty of committing a "crime of honor" or a violent assault against a woman for perceived immodesty or defiant behavior; however, none was reported during the year. Prostitution is illegal and is not considered a widespread problem. Government officials reported 13 cases before the courts. Sexual harassment is also illegal and carries penalties of imprisonment and/or fines. In the eight reported cases, there were five convictions, and the three were still pending at year's end.

Traditions and the interpretation of Shari'a restricted activities of women. The government adhered to an interpretation of Shari'a that recognizes that Muslims have the automatic right to inherit from their Muslim spouses; however, non-Muslim spouses (invariably wives, since Muslim women cannot legally marry non-Muslims) do not inherit unless their spouse formally wills them a portion (up to one-third of the total) of their estates. A Muslim husband similarly does not automatically inherit the property of a non-Muslim wife. Muslim wives have the right to inherit from their husbands. Women may inherit more or less than other male family members depending on their relation to the deceased; however, in the cases of siblings, sisters inherit only one-half as much as their brothers. In cases of divorce, young children usually remain with the mother, regardless of her religion, unless she is found to be unfit. Interpretations of Shari'a stipulate that girls remain with their mother until the age of 16 and 14 for boys. The tendency is to allow girls to remain with their mothers until marriage, and there is greater flexibility for boys.

Women may attend judicial court proceedings but generally were represented by a male relative; however, women may represent themselves. The testimony of two women equals that of one man, but the courts routinely interpreted this on a case-by-case basis. A non-Muslim woman is not required to convert to Islam upon marriage to a Muslim, but many make a personal decision to do so. A noncitizen woman is not required to become a citizen upon marriage to a citizen. Children born to a Muslim father are considered to be Muslim.

Women made up 14 percent of the overall workforce and 30 percent of the local national workforce, serving as university professors, public school teachers, and police. Women served as professionals in government service, education, health, and private business. Women appeared to receive equal pay for equal work; however,

they often did not receive equal allowances, which generally covered transportation and housing costs.

Although women above age 30 were legally able to travel abroad alone (see section 2.d.), tradition and social pressures caused most women to travel with male escorts.

The Supreme Council for Family Affairs, a government department, seeks to improve the status of women and the family under both civil and Islamic law. The council contributed to a number of national and international conferences, studies, and reports on the status of women in the country. Since the establishment of the Supreme Council, the status of women has improved and women's issues were accorded due importance. Unlike previously, women had input on the contents and provisions of laws that affect them and their children. The council played an integral role in the drafting of legislation affecting women and children. Women were being empowered to tackle issues once considered taboo, such as violence. In November the Supreme Council held a two-day seminar on violence against women in conjunction with the UN International Day for the Elimination of Violence Against Women. The seminar focused on ways to fight violence against women, ensure the safety of victims, and provide legal mechanisms to address such cases.

The Supreme Council established five organizations that deal with women and children issues: the Qatar Foundation for the Protection of Women and Children, the Family Consulting Center, the Motherhood and Childhood Cultural Center, the Orphans Care Center, and the Qatar Society for Senior Citizens Care. The Qatar Foundation for the Protection of Women and Children handled more than 300 cases involving women and children. The foundation successfully resolved 90 percent of these cases to the satisfaction of the complainant. Cases were either referred to the courts or other agencies, and where appropriate, counseling and additional support were provided.

*Children.*—The government is committed to the welfare of citizen children. The government provided for a well-funded, free public education system (elementary through university) and a complete medical protection program. Education was compulsory for citizen children through the age of 15 and was free through primary school (the equivalent of ninth grade) for all citizen children and for noncitizen children whose parents worked in the government sector. Based on 2004 figures from the Planning Council, approximately 60 percent of school-age children attended school, and most children completed primary school. Medical coverage for noncitizen children was limited. The lack of primary educational and medical services to noncitizen children caused hardship for a substantial part of the expatriate population living in the country.

There was no societal pattern of child labor or abuse of children, apart from the trafficked, juvenile camel jockeys (see section 5, Trafficking).

The Qatar Foundation for the Protection of Women and Children of the Supreme Council for Family Affairs maintained a children's hot line called the Friendly Line for use by children and conducted numerous awareness campaigns on the rights of the child. The system allowed both citizen and noncitizen children to call with questions and concerns ranging from school, health, and psychological problems to concerns about sexual harassment.

*Trafficking in Persons.*—Young boys were trafficked into the country to serve as jockeys in camel races early in the year. However, on July 28, Law No. 22, banning the transport, employment, training, and involvement of children under the age of 18 in camel races, came into force. According to Article 4, anyone who violates the law faces 3 to 10 years imprisonment and a fine ranging between \$13,000 (47,320 riyals) and \$55,000 (200,200 riyals).

Between the months of June and August, the government repatriated approximately 200 children jockeys to Sudan. According to officials at the Embassy of Sudan, no Sudanese camel jockeys remained in the country. The Qatar Charitable Society, in coordination with the Sudanese-based National Council for Childhood Care and the Qatari Embassy in Khartoum, will administer the government's program to rehabilitate and integrate the repatriated camel jockeys.

In July a human rights department was established in the Ministry of Interior to receive and process victims of human rights abuses and trafficking in persons. The director of the department was named as the national coordinator for trafficking problems. Three hot lines have also been established for victims of trafficking in persons.

In September the government opened a shelter for trafficking victims to serve the needs of abused domestic workers, other laborers and children. The shelter was in a small housing compound and consisted of fully furnished three-bedroom villas, with two villas each for men, women and children. Each villa could accommodate between six to seven people. The administrative building houses a health clinic with



a medical doctor working on site. The shelter was under the management of the national trafficking in persons coordinator.

In addition to the law banning underage camel jockeys, traffickers can also be prosecuted under the Penalty Law of 2004, which bans forced or coerced labor. Those caught breaking the law may receive six months' imprisonment or a fine of approximately \$825 (3,003 riyals). In cases involving the employment of minors, the punishment is three years imprisonment or a fine of approximately \$2,700 (9,828 riyals).

Men and women were trafficked into situations of coerced labor. Legislation guiding the sponsorship of expatriate labors has created conditions constituting forced labor or slavery.

Under Law No. 3 of 1984, expatriate laborers were not allowed to leave the country without a signed exit sponsorship or change employment without a written release from their sponsor. The dependence of foreign laborers on their employer for residency rights, plus the ability to change employment or travel, leaves them vulnerable to abuse. Some sponsors have used this power against their workers. They have withheld their consent to force foreign employees to work for longer periods, to avoid having to pay salary owed to the worker, and to extract money from the laborer. Some workers ended up in the deportation center due to their employers withholding their passports and failing to renew their work visas. Nepalese officials reported that 367 Nepalese workers have been held at the deportation center and have been awaiting repatriation for several months. The workers were apprehended by law enforcement officials because they had expired work visas.

The country also was a destination for women and girls who traveled to the country to work as domestic servants. Two embassies reported that a total of 600 of their nationals had been forced into domestic servitude and sexual exploitation.

Although the government has identified various agencies to implement antitrafficking reforms, it did not systematically monitor its antitrafficking efforts.

*Persons with Disabilities.*—Law No. 2 of 2004 requires the allocation of resources for persons with disabilities and prohibits discrimination against such persons. Among some of the rights and provisions mandated for persons with disabilities are: Rehabilitation, education, transportation, medical and social care, support services, access to public facilities, and employment. In the case of the latter, the law requires that 2 percent of all jobs in government agencies and public institutions be set aside for persons with disabilities. Also, private sector businesses employing a minimum of 25 persons were required to hire persons with disabilities. Employees who violated these employment provisions were subject to fines. According to government officials and the National Human Rights Committee, the law was strictly observed, and no complaints were made during the year. The Supreme Council for Family Affairs is charged with ensuring compliance with the rights and provisions mandated under Law No. 2.

*National/Racial/Ethnic Minorities.*—The government discriminated based on nationality in the areas of employment, education, housing, and health services. Noncitizens did not receive the same benefits as citizens. They were required to pay for residence permits, health care, electricity, water, and education (services that were provided free of charge to citizens). Noncitizens generally could not own property; however, Law 17 of 2004, regulates the right of usufruct and allows for ownership of property in only two designated areas. The largest nationality groups among noncitizens were Indian, Bangladeshi, Pakistani, and Nepalese nationals, and Arab nationals of other countries. In the private sector, many citizens of Iranian origin occupied some of the highest positions.

*Other Societal Abuses and Discrimination.*—Law No. 11 of 2004 prohibits sex between males. Penalties included life imprisonment for acts involving minors or mentally retarded persons, 7 years' imprisonment in cases involving consenting adults and 15 years' imprisonment in cases in which an individual is forced.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The new labor law enacted in January and subsequent regulations promulgated in May provide for the right of association for citizens over 18 years of age. Noncitizens were not eligible to form worker or general committees. Under the new labor law, labor associations or unions are defined as worker or general committees. Also, workers' committees can only be formed in private enterprises with more than 100 citizen workers. Foreign workers can only be members of joint labor-management committees. Those working in the government sector are prohibited from joining unions. Further, the new law and regulations permit only a single national trade union structure and forbid affiliation with groups outside the country.

*b. The Right to Organize and Bargain Collectively.*—Although no labor unions existed during the reporting period, under the new labor law, workers are granted the right to bargain collectively and to sign joint agreements, i.e., agreements reached between employer and worker regarding a work-related issue; however, that right is circumscribed by the government's control over the rules and procedures of the bargaining and agreement processes. Collective bargaining is not freely practiced, and there are no workers under collective bargaining contracts. The new law also grants workers the right to strike; however, the restrictive conditions imposed by the statute make the likelihood of striking extremely unlikely. Although the law constrains a worker's right to strike, expatriate workers staged a total of six strikes during the year as a means of seeking redress and improvement in their work situation from employers.

Government employees, domestic servants, and those in the public utility, health, and security services are prohibited from striking. However, they can seek permission to hold a public gathering under Law No. 18 of 2004. Employers set wages unilaterally without government involvement. Local courts handled disputes between workers and employers; however, foreign workers avoided drawing attention to problems with their employers for fear of repatriation. According to source country embassies and some migrant workers, the Labor Department was widely perceived to be objective within a narrow mandate when dealing with the nonpayment of wages. The Labor Department claimed that it resolved the vast majority of worker complaints amicably, with a very small percentage referred to the labor courts for judgment.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Penalty Law of 2004 prohibits forced or compulsory labor, including by children; however, foreign workers in some cases were employed under circumstances that constituted forced labor. More than three-quarters of the workforce were foreign workers who, dependent on a single employer for residency rights, were vulnerable to abuse. For example, employers must give consent before exit permits are issued to any foreign employee seeking to leave the country. Some employers temporarily withheld this consent to force foreign employees to work for longer periods than they wished. Unskilled workers and domestic servants were particularly vulnerable to nonpayment or late payment of wages. During the year compulsory labor by children occurred (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced and compulsory labor by children, and the government generally enforced this prohibition with respect to citizen children; however, some child labor occurred. The new labor law raised the minimum age for employment to 16 years.

The law provides that minors between the ages of 16 and 18 can be employed with parental or guardian permission, and some children worked in small, family-owned businesses such as small markets or as office clerks. Minors may not work more than 6 hours a day or more than 36 hours a week. Employers must provide the Labor Department with the names and occupations of their minor employees and obtain permission from the Ministry of Education to hire a minor. The department may prohibit the employment of minors in jobs that are judged dangerous to the health, safety, or morals of minors. In the beginning of the year, very young children, usually of Sudanese background, were employed as jockeys in camel races (see section 5, Trafficking).

*e. Acceptable Conditions of Work.*—Although the law provides the emir with authority to set a minimum wage, he did not do so. The average wage of noncitizen workers did not provide a decent standard of living for a worker and family. According to Planning Council statistics, the average monthly wage in 2001 was \$795 (2,902 riyals). The law prescribes a 48-hour workweek with a 24-hour rest period, although most government offices followed a 36-hour workweek. Employees, who worked more than 48 hours per week, or 36 hours per week during the holy month of Ramadan, were entitled to overtime pay. Government offices and major private sector companies adhered to this law; however, it was not observed with respect to unskilled laborers and domestic and personal employees, the majority of whom were foreigners. Many such workers frequently worked 7 days per week, and more than 12 hours per day with few or no holidays, no overtime pay, and no effective way to redress grievances.

Some employers mistreated foreign domestic servants, predominantly those from South Asia, Indonesia and the Philippines. Some foreign embassies provided temporary shelter for 48 hours to their nationals who left their employers as a result of abuse or disputes before transferring the case to local government officials. According to source country embassies, the majority of cases were resolved amicably within 48 hours. Those not resolved within 48 hours were transferred to the Crimi-

nal Evidence and Investigation Department of the Ministry of Interior for a maximum of seven days. Cases not resolved within seven days were transferred to the court. The embassies of the Philippines and Indonesia combined received a total of 600 complaints from housemaids alleging mistreatment by their employers during the year. Complaints included sexual harassment, physical torture or torment, overwork, imprisonment, and maltreatment. Abused domestic servants usually did not press charges for fear of losing their jobs. According to Indonesian officials, a total of 553 Indonesian housemaids ran away from their sponsors during the year.

The government has enacted regulations regarding worker safety, but enforcement, which is the responsibility of the Ministry of Energy and Industry, the Ministry of Health, and the Labor Department, was lax due to insufficient training and lack of personnel. Diplomatic representatives conducted visits to labor camps and found the majority of unskilled foreign laborers living in cramped, dirty, and hazardous conditions, often without running water or electricity. A visit to a camp adjacent to a paper factory where five workers had died after exposure to toxic gases found other workers, four days later, still being exposed to the same poisonous gases.

The Department of Public Safety oversaw safety training and conditions, and the state-run petroleum company had its own safety standards and procedures. The regulations listed partial and permanent disabilities for which compensation may be awarded, some connected with handling chemicals and petroleum products or construction injuries. The law does not specifically set rates of payment and compensation. The government provided free medical treatment to workers who suffered work-related sickness or injuries. The law does not provide workers specifically the right to remove themselves from hazardous work conditions, and workers often hesitated to do so for fear of dismissal. The law provides any worker with the right to seek legal relief from onerous work conditions; however, pursuing such relief risked repatriation, and there were no reports of workers seeking such relief during the year.

Foreign workers may enter the country on a visitor's visa, but a sponsor is needed to convert a visitor's visa to a work visa, and the worker must have a sponsor's permission to depart the country. The government also fined individual sponsors and employers who severely violated residence and sponsorship laws by prohibiting them from importing labor until they rectified the situation. Employers mistreated some foreign domestic servants. Such mistreatment generally involved the nonpayment or late payment of wages; in some cases, it involved rape and physical abuse.

## SAUDI ARABIA

Saudi Arabia is a monarchy ruled by the Al Saud family without elected representative institutions at the national level and with a 2004 population of approximately 26.7 million of which an estimated 7 million were foreign citizens. On August 1, King Abdullah bin Abd al-Aziz Al Saud ascended the throne upon the death of his half-brother, King Fahd bin Abd al-Aziz Al Saud. As the custodian of Islam's two holiest sites in Mecca and Medina, the government bases its legitimacy in governance according to its interpretation of Islamic law (Shari'a). The Basic Law sets out the system of government, rights of citizens, powers, and duties of the state, and provides that the Koran and the Traditions (*Sunna*) of the Prophet Muhammad serve as the country's constitution. The government generally maintained effective control over the security forces.

Human rights issues have not historically been the subject of public discourse but have become increasingly prominent during the year. The government's human rights record remained poor overall with continuing serious problems, despite some progress. The following human rights problems were reported:

- no right to change the government
- infliction of severe pain by judicially sanctioned corporal punishments
- beatings and other abuses
- arbitrary arrest
- incommunicado detention
- denial of fair public trials
- exemption from the rule of law for some individuals and lack of judicial independence
- political prisoners
- infringement of privacy rights

- significant restriction of civil liberties—freedoms of speech and press, assembly, association, and movement
- no religious freedom
- widespread perception of corruption
- lack of government transparency
- legal and societal discrimination against women, religious and other minorities
- strict limitations on worker rights.

For the first time since 1963, elections for governmental bodies occurred during the year. On February 10, March 3, and April 21, a male electorate chose 592 members, half of the seats, on 178 advisory municipal councils. Women were not permitted to vote or stand for office. On December 14, the king and crown prince appointed the other half of the council members. During the year public attention to human rights increased; unlike in previous years, human rights issues were discussed in the media. On September 12, the Council of Ministers approved the establishment of the Human Rights Commission, a specialized governmental entity, aimed at protecting and enhancing human rights as well as raising public awareness and ensuring the implementation of human rights in line with Shari'a rule.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings; however, the government executed persons for criminal offenses after closed trials, making it impossible to assess whether legal protections were applied (see section 1.e.). The country's highest court, the Supreme Judicial Council, is responsible for reviewing cases involving sentences of stoning, amputation, or death, and sentences can only be enforced pursuant to a royal decree issued by the king.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Basic Law prohibits torture and Shari'a prohibits judges from accepting confessions obtained under duress; however, authorities abused both citizens and foreigners. Ministry of Interior (MOI) officials were responsible for most incidents of abuse of prisoners, including beatings, whippings, and sleep deprivation. In addition, there were allegations of beatings with sticks and suspension from bars by handcuffs. There were allegations that these practices were used to force confessions from prisoners.

During the year the religious police (*Mutawwa'in*) harassed, abused, and detained citizens and foreigners of both sexes. These incidents were most common in the central region, including the capital, Riyadh, and less frequent in the eastern and western regions of the country.

The government sentenced criminals to punishment according to its interpretation of Shari'a. Corporal punishments provided by law included public execution by beheading, amputation, lashing, and other measures deemed appropriate by the judicial authorities, including potentially as eye-gouging.

By year's end, the press reported approximately 86 executions. Executions were for killings, narcotics-related offenses, rape, and armed robbery. The authorities punished repeated thievery and other repeated offenses by amputation of the right hand and left foot. The government also punished convicted persons by lashing. According to press reports, lashes were generally administered with a thin reed by a man who must hold a book under his arm to prevent him from lifting the arm too high. The strokes, delivered through a thin shirt, are not supposed to leave permanent damage, but to leave painful welts that bleed and bruise. Persons convicted of less serious offenses, such as alcohol-related offenses or being alone in the company of an unrelated person of the opposite sex sometimes were punished by lashing.

According to January 6 press reports, two young citizens, Barjis bin Faleh and Abdulrahman bin Haif, were sentenced to prison terms (12 years and 1,200 lashes and 2 years and 200 lashes) for orchestrating, filming with a camera phone and distributing a video on the Internet of a foreign driver sexually assaulting a 17-year-old girl. The driver was sentenced to 2 years and 600 lashes. The press reported on January 24 that a 12-year-old Bangladeshi boy was arrested for pickpocketing pilgrims and lashed 80 times after conviction by an ad hoc court in Mina.

After arrest at a private party in Jeddah on March 10, more than one hundred men were convicted and sentenced after closed trials for "dancing and behaving like

women.” More than 70 men were sentenced to one year’s imprisonment. Thirty one men received sentences ranging from six months to one year and 200 lashes for each. Four men were sentenced to two year’s imprisonment and two thousand lashes each, according to the NGO Human Rights Watch (HRW).

On November 14, a court in Qassim Province ordered 750 lashes, as well as a prison sentence of 40 months and a ban from teaching for Muhammad al-Harbi, a high school chemistry teacher, reportedly after accusations of “trying to sow doubt in a student’s creed” by speaking positively about his views on Christianity, Judaism, and analyzing the causes of terrorism (see sections 1.e. and 2.a.). There was domestic as well as international media attention to the case and the sentences were not carried out because the king pardoned al-Harbi in December.

In a similar case in 2001, Muhammad al-Suhaimi, a teacher in an intermediate school, was suspended from teaching and was told not to talk to the media after reportedly engaging in a discussion with students about love in relation to marriages in the country and in relation to God. Authorities accused him of encouraging students to engage in homosexuality and to commit adultery. In a subsequent trial in 2001, al-Suhaimi was sentenced to three years in prison and 300 lashes, but appealed the conviction. He began serving his sentence during the year and served two weeks in prison before receiving a pardon from King Abdullah on December 8.

At year’s end the case Puthan Veetil ‘Abdul Latif Noushad, an Indian citizen was still under review under review in the appeals court in Riyadh. In 2003 the greater Shari’a Court of Damman sentenced him to have his right eye gouged out in punishment for his role in a fight which injured a Saudi citizen. Noushad was sentenced to prison for three years.

Following a December 16, 2004 political demonstration, 15 demonstrators were sentenced to between 100 and 250 lashes.

The government reserved its position on Article 20 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and does not recognize the jurisdiction of the Committee against Torture to investigate allegations of systematic torture.

*Prison and Detention Center Conditions.*—Conditions at prisons and detention centers were generally acceptable, according to international standards. However, there were some prisons with below-acceptable standards in hygiene, food, medical, and social services, and prolonged detention of prisoners in poor health. Many jails remained overcrowded, and some detainees were allowed family visits only after a significant period of time after their initial incarceration. The authorities restricted access of foreign visitors to the prisons, 80 percent of whose inmates were non-Saudis, according to HRW. The government-patronized NSHR published a report in December 2004, including information on its prison visits.

*d. Arbitrary Arrest or Detention.*—The Basic Law prohibits arbitrary arrest and detention and limits the period of arrest to five days without charges being filed; however, ambiguities in implementation of the law and lack of due process give the minister of interior broad powers to detain persons indefinitely. In practice, persons were held weeks or months and sometimes longer.

*Role of the Police and Security Apparatus.*—King Abdullah remained in command of the National Guard. Crown Prince Sultan remained the minister of defense and aviation with responsibility for all armed forces of the Ministry of Defense and Aviation. The minister of interior, Prince Nayif, exercised control over government internal security forces: police and border forces, and the General Directorate of Investigation (GDI), its internal security service (*Mabahith*), and its own special forces. The religious police (*Mutawwa’in*) or the Committee for the Promotion of Virtue and Prevention of Vice constitute a semiautonomous agency, reporting to the king via the Royal Diwan (the king’s private office). They monitor public behavior to enforce strict adherence to conservative Islamic norms.

*Arrest and Detention.*—The law prohibits arbitrary arrest and detention and limits the period of arrest to 5 days without charges being filed; however, in practice, persons were held weeks, months and sometimes longer, and the law gives the minister of interior broad powers to detain persons indefinitely.

At times the authorities arrested and detained persons without following explicit legal guidelines. The religious police intimidated, harassed and brought to police stations, persons whom they accused based on their own religious interpretations of committing “crimes of vice” including arrests for witchcraft and sorcery (see section 2.c.).

The regulations provide for bail for less serious crimes, although authorities at times released detainees on the recognizance of a patron or sponsoring employer without payment of bail. Throughout the country several Committees for Collection of Donations for Impoverished Prisoners raised funds to pay fines stemming from

traffic accidents and civil cases since prisoners remain in custody until the fines are paid, regardless of length of sentence.

If accused persons were not released, authorities typically detained them for an average of two months before sending the case to trial or, in the case of some foreigners, summarily deporting them. There were no established procedures providing detainees the right to inform their family of their arrest.

By royal decree, the religious police have the authority to detain persons for no more than 24 hours for violations of the strict standards of proper dress and behavior that they themselves determine; however, they often exceeded this limit before delivering detainees to the police (see section 1.f.).

The religious police generally complied with the requirement that a police officer accompany them at the time of an arrest; however, there were cases in which religious police detained persons without the presence of a police officer. During the year in the conservative Nejd region that includes Riyadh, reports continued of religious police accosting, abusing, arresting, and detaining persons alleged to have violated dress and behavior standards. There were also a number of reports of religious police in Mecca taking similar actions. The risk of harassment was substantial. The religious police detained young men for offenses that included eating in restaurants with young women not related to them, allegedly making lewd remarks to women in shopping malls, or walking in groups through family-only sections of shopping centers. Religious police detained women of many nationalities for actions such as riding in a taxi with a man who was not their relative, appearing with their heads uncovered in shopping malls, and eating in restaurants with males who were not their relatives. Many such prisoners were held for days, sometimes weeks, without officials notifying their families or, in the case of noncitizens, their embassies.

There continued to be cases in which religious police arrested and detained Christians for practicing their faith; some were charged with holding services in their homes, while others were apparently arrested arbitrarily (see section 2.c.).

The authorities may detain without charge persons who publicly criticize the government, or may charge them with attempting to destabilize the government (see sections 2.a. and 3).

Political detainees arrested by the internal security service were held incommunicado in special prisons during the initial phase of an investigation. This period may last weeks or months under the MOI's broad legal authority. Access by families or lawyers to detainees was restricted.

Political protestors arrested and detained in December 2004 were held for weeks prior to being charged. Islamist dissident Shaykh Sa'eed bin Za'er remained in jail without charge from April 19, 2004 until his pardon on August 8.

The government continued to discriminate and commit abuses against members of the Shi'a Muslim minority. Government security forces, mostly religious police, reportedly arrested Shi'a based on scant suspicion, held them in custody for lengthy periods, and then released them without explanation.

Citizens can report abuses by security forces at any police station; however, there is no information publicly available on how complaints were handled.

*Amnesty.*—The government continued its tradition of releasing prisoners on special occasions and during Ramadan and religious holy days. On August 8, the king pardoned Islamist dissident Shaykh Sa'eed bin Za'er and three jailed political dissidents who advocated constitutional reform and their lawyer (see sections 1.e., 2.a., and 2.d.). King Abdullah also pardoned five Libyans who had plotted to assassinate him when he was crown prince and, during Ramadan, thousands of prisoners held for petty crimes.

*e. Denial of Fair Public Trial.*—The Basic Law provides for an independent judiciary, and the judiciary usually decided cases on their merits; however, members of the royal family were not required to appear before the courts, and their associates have influenced judges. The Supreme Judicial Council, whose members are appointed by the king, appoints, transfers, and removes judges. The Ministry of Justice disciplines judges. The Basic Law allows for a public trial; however most trials were closed to the public.

The legal system is based on the government's interpretation of Islamic law in all courts. Courts exercise jurisdiction over common criminal cases and civil suits regarding marriage, divorce, child custody, and inheritance. Their jurisdiction extends to non-Muslims for crimes committed in the country. Cases involving relatively small penalties were tried in summary courts. More serious crimes are adjudicated in courts of common pleas from which appeals may be made to the courts of appeal.

Other civil proceedings, such as those involving claims against the government and enforcement of foreign judgments, were held before various specialized administrative tribunals including the Commission for the Settlement of Labor Disputes.

The Board of Grievances hears complaints against government actions, including against the religious police. Plaintiffs have won their cases in these tribunals against government actions and been able to enforce foreign judgments.

On April 3, the late King Fahd issued a royal decree endorsing a reorganization plan for the judiciary proposed by the ministerial committee for administrative reforms. During the year the government was implementing the plan under which Shari'a remains the basis for the judicial system.

The government permitted Shi'a Muslims to use their own legal tradition to adjudicate cases involving domestic issues, inheritance, and Islamic endowments. However, there were only two judges. The two courts, one in Al-Hasa and the other in Qatif, handled cases of Shi'a family law. However, these courts did not have adequate resources to serve the large Shi'a population in the Eastern Province, and either party to a dispute can appeal the Shi'a court's decision to a Shari'a (Sunni) court based on the Hanbali school of jurisprudence.

There was no comparable right for non-Muslims or foreigners, whose cases were handled in Shari'a courts.

The military justice system has jurisdiction over uniformed personnel and civil servants who are charged with violations of military regulations. The minister of defense and aviation and the king review the decisions of courts-martial.

According to the Justice Ministry, judges are free to base their decisions on any of the four Sunni schools of jurisprudence, although in practice judges usually follow the Hanbali school.

The Supreme Judicial Council may not reverse decisions made by courts of appeal; however, the Council may review lower-court decisions and refer them back to the lower court for reconsideration.

The Council of Senior Religious Scholars (*Ulema*) is an autonomous advisory body of 20 senior religious jurists, including the minister of justice, which interprets Shari'a establishing the legal principles to guide lower-court judges.

*Trial Procedures.*—The Criminal Procedure Law provides persons under investigation the right to a lawyer and permits lawyers to present arguments in criminal courts. The Law also provides the right to inform convicts of their right to appeal rulings.

A woman's testimony does not carry the same weight as that of a man. In a Shari'a court, the testimony of one man equals that of two women. Under the Hanbali interpretation of Shari'a followed in the kingdom, judges may discount the testimony of persons who are not practicing Muslims or who do not adhere to Hanbali doctrine. Legal sources reported that testimony by Shi'a was often ignored in courts of law or was deemed to have less weight than testimony by Sunnis.

Female parties to court proceedings such as divorce and family law cases generally had to deputize male relatives to speak on their behalf. In the absence of two witnesses, or four witnesses in the case of adultery, confessions before a judge were almost always required for criminal conviction—a situation that has led prosecuting authorities to coerce confessions from suspects by threats and abuse (see section 1.c.).

Laws and regulations state that defendants should be treated equally; however, sentencing was not uniform and crimes against Muslims received harsher penalties than those against non-Muslims. In the case of wrongful death, the amount of indemnity or "blood money" awarded to relatives varied with the nationality, religion, age, and sex of the victim. A sentence may be changed at any stage of review, except for punishments stipulated by the Koran.

Islamic law considers Hindus to be polytheists and on this basis justify discrimination in calculating accidental death or injury compensation. According to the country's Hanbali interpretation of Shari'a, once fault is determined by a court, a Muslim male receives 100 percent of the amount of compensation determined, a Jew or Christian male receives 50 percent, and all others receive  $\frac{1}{16}$  of the amount a male Muslim receives. Women receive 50 percent of what men receive in each of these categories.

Provincial governors (all of whom were members of the royal family during the year) have authority to reduce a sentence. In court cases between two individuals, the wronged party has the right to accept money or impose no punishment instead of the punishment decreed by the judge. In general, members of the royal family and other powerful families were not subject to the same rule of law as ordinary citizens.

The king and his advisors review cases involving capital punishment. The king has the authority to commute death sentences and grant pardons, except for capital crimes committed against individuals. In such cases, he may request the victim's next of kin to pardon the killer—usually in return for compensation from the family of the convicted person or from the king.

*Political Prisoners.*—The government did not provide information regarding political prisoners or respond to inquiries about them. The government conducted closed trials for persons who may have been political prisoners and in other cases has detained persons incommunicado for long periods while under investigation.

On August 8, King Abdullah pardoned imprisoned political reformers and dissidents Abdullah al-Hamid, Matrouk al-Faleh, and Ali al-Demaini as well as their lead attorney, Abdul Rahman al-Lahem, who had been arrested on November 6, 2004, and held without charge. The political reformers had been imprisoned since March 2004. After a closed trial, they were convicted of “sowing dissent and disobeying the ruler,” for advocating peaceful democratic reform such as calling for a constitutional monarchy, planning to establish their own human rights organization, and protesting the composition of the board of the National Society for Human Rights (NSHR), which was funded by a donation by King Fahd. They were sentenced on May 15 to prison terms of between six and nine years. Their appeal had been denied in July (see section 2.a.).

Local human rights activists criticized the pardon because the political reformers were released without actual due process and open trials, meaning that the reformers were “unconditionally” pardoned rather than found “not guilty” and thus continued to be defined as convicted criminals. This could potentially have legal implications for them at a later date (see sections 1.d. and 2.d.). Sometimes pardoned persons’ passports have been confiscated and they also may experience difficulty securing employment.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Basic Law guarantees the inviolability of homes and the privacy of correspondence. The Criminal Procedure Law requires authorities to obtain a warrant prior to searching a residence, or a court order prior to perusing personal correspondence or documents. The government generally respected this inviolability; however, there were cases in which the government infringed on these rights, notably religious police raids on private residences. Royal decrees include provisions calling for the government to defend the home from unlawful intrusions, while laws and regulations prohibit officials from intercepting mail and electronic communications except when necessary during criminal investigations. The police generally must demonstrate reasonable cause and obtain permission from a provincial governor before searching a private home.

Despite these provisions, customs officials routinely opened mail and shipments to search for contraband, including material deemed pornographic and that appeared to be non-Sunni Islamic religious material. Customs officials arbitrarily confiscated or censored materials including Christian Bibles and religious videotapes (see section 2.c.). The authorities also opened mail and used informants and wiretaps in internal security and criminal matters. Informants and an informal system of ward bosses in some districts reported to the MOI “seditious ideas,” antigovernment activity, or “behavior contrary to Islam” in their neighborhoods.

The government enforced most social and Islamic religious norms, the government’s interpretations of which are matters of law (see section 5). Women may not marry noncitizens without government permission; men must obtain government permission to marry noncitizen women outside the six states of the Gulf Cooperation Council (GCC). In accordance with Shari’a, women are prohibited from marrying non-Muslims; men may marry Christians and Jews, as well as Muslims (see section 2.c.). The government does not refuse marriage licenses between Sunni and Shi’a couples; tradition and culture, not law, restrict marriages between Sunni and Shi’a citizens.

According to the law, men who work in certain government positions, such as the military, cannot marry noncitizens though in practice exceptions are made. The government subjects top civil servants and security officials applying to marry foreigners to extensive questioning. Due to certain cultural norms, the government tends to be more lenient when approving marriages of foreigners to elderly and disabled Saudis. The marital restrictions also applied to citizens studying overseas on government scholarships. Violators risked disciplinary action; however, this policy was frequently violated and there were no reports of sanctions being imposed.

While religious police practices and incidents of abuse varied widely in different regions of the country, they were most numerous in the central Nejd region. In certain areas, the religious police and religious vigilantes, acting on their own, harassed, abused, arrested, and detained citizens and foreigners (see section 1.d.).

Religious police enforcement of strict standards of social behavior included closing commercial establishments during the five daily prayer observances, insisting upon compliance with strict norms of public dress, and dispersing gatherings of women in public places designated for men, as well as preventing unaccompanied or single men from entering public places designated for families. Religious police frequently



reproached both citizen and foreign women for failure to observe strict dress codes, and arrested men and women found together who were not married or closely related.

Incidents involving the religious police increased during Ramadan because many religious police felt they had added license to assert their authority during the holy month.

The government blocked access to some Internet Web sites, claiming that these restrictions bar access to pornography. However, the government also blocked access to sites with religious and political material that the government considered offensive or sensitive.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—According to the Basic Law, the media's role is to educate the masses and to promote national unity; however, media outlets can be banned if they give rise to mischief and discord, compromise the security of the state and its public image, or offend man's dignity and rights. The government continued to restrict freedom of speech and press and censored articles that the government deemed negative towards it, the royal family or Islam. Authorities routinely censored foreign print sources. However, during the year, there was regular discussion in the media of social, economic, and political issues previously considered taboo such as reform, trafficking in persons, prostitution, homosexuality, the religious establishment, women's rights, and human rights.

In March 2004, journalist Faris bin Hozam al-Harbi was banned from writing or working for any newspaper; however, he was a frequent commentator on television on the topic of security and was often quoted in the press. On November 6, 2004, the lead attorney for the arrested political reformers, Abdul Rahman al-Lahem, was arrested. He had signed an agreement with the government undertaking not to speak to the press about the case, but continued to give interviews, telling one journalist that he did not accept the government's attempt to silence him. On August 8, the king pardoned al-Lahem with his political reformer clients (see section 1.e.).

The print media were censored and privately owned, but subsidized, and some were owned, financially backed by, or had other close ties to members of the royal family. Journalists also practiced self-censorship, refraining from direct criticism of government officials. A media policy statement and a national security law both prohibit the dissemination of criticism of the royal family and the government. The government media policy statement urged journalists to uphold Islam, oppose atheism, promote Arab interests, and preserve cultural heritage. The Ministry of Information appoints, and may remove, all editors in chief. The government also provided guidelines to newspapers regarding controversial issues. The government-owned Saudi Press Agency expressed official government views.

The Saudi Journalist Association was founded in 2004 under a charter granted by the government in 2003. Membership is voluntary and open to both men and women. Some journalists chose not to join. Non-Saudi journalists working in the kingdom were eligible to join as nonvoting members. The organization's board of directors, which was elected on June 7, 2004, had nine members, including two women.

The authorities continued to ban government employees from criticizing the government. The government enforced existing laws based on Article 12 of the Basic Law that provides the state with the authority to "prevent anything that may lead to disunity, sedition, and separation." Accordingly, all public employees are enjoined from "participating, directly or indirectly, in the preparation of any document, speech or petition, engaging in dialogue with local and foreign media, or participating in any meetings intended to oppose the State's policies."

Newspapers routinely investigated and published stories on crime and terrorism. Two London-based Arabic dailies, *Al-Sharq Al-Awsat* and *Al-Hayat*, continued to be owned by members of the royal family and were widely distributed and read in the country. Both newspapers practiced self-censorship.

The government owned and operated most domestic television and radio companies. Government censors removed any reference from foreign programs and songs to politics, religions other than Islam, pork or pigs, alcohol, and sex.

During the year, the Consultative Council (*Majlis al-Shura*) continued partial, delayed television coverage of its proceedings and allowed journalists to attend sessions. The December National Dialogue meeting on relations with Muslim minorities and non-Muslims was simultaneously broadcast throughout the kingdom (see sections 2.b. and 2.c.).

There were several million satellite-receiving dishes in the country, which provided citizens with foreign television programming. Access to outside sources of in-

formation, such as Arabic and Western satellite television channels and the Internet was widespread.

The government banned books, magazines, and other materials that it considered sexual or pornographic in nature. The Ministry of Information compiled and updated a list of publications that were prohibited from being sold in the country. The government censored most forms of public artistic expression and prohibited cinemas and public musical or theatrical performances, except those that were considered folkloric.

Access to the Internet was available through local government-monitored servers. There were as many as one million Internet subscribers. Some citizens circumvented controls by accessing the Internet through servers in other countries. The government attempted to block Web sites that it deemed sexual, pornographic, politically offensive, or “un-Islamic”; however, many citizens were able to circumvent some or most of these restrictions. The government did have an “appeal” process, through which citizens could request reconsideration of a decision to block a particular Web site and authorities reportedly at least partially unblocked some Web sites.

A Shi’a professor continued to face a travel ban for his 2003 criticisms of the government’s discriminatory policies against the Shi’a. There were other reports during the year that Shi’a activist writers and other public figures were banned from traveling and that the government had confiscated their passports.

The government continued to restrict academic freedom. The government prohibited the study of evolution, Freud, Marx, Western music, and Western philosophy. Some professors believed that informants monitored their classroom comments and reported them to government and religious authorities.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The Basic Law does not address freedom of assembly, and the government strictly limited it in practice and prohibited all public demonstrations.

In December 2004, police arrested 21 persons for taking part in an antigovernment protest in Jeddah. The protest was called by Saad al-Faqih, a London-based Saudi and supporter of international terrorism. At year’s end, the detainees were still awaiting trial (see sections 1.d. and 3).

Public meetings were usually segregated by sex. The authorities monitored any large nonfamily gathering, particularly if women were present. The religious police dispersed any large nonfamily groups found in public places, such as restaurants.

*Freedom of Association.*—The Basic Law does not address freedom of association, and the government strictly limited it in practice.

The government prohibited the establishment of political parties or any type of group that the government considered counter to its regime, or overstepping the bounds of criticism by challenging the king’s authority (see section 3).

From January 2003 until the arrest of political reformers in March 2004, reform supporters submitted a series of petitions to the government. Their recommendations covered reform, women’s rights, religious moderation, and political participation. In June 2003 the government instituted a series of “National Dialogue” discussions, to discuss issues involving religion, women, youth, extremism, and education. The fifth National Dialogue discussion took place in December, and dealt with relations with Muslim minorities and non-Muslims. The government also instituted a permanent National Dialogue Center in Riyadh. The government licensed a large number of humanitarian organizations and tribal and professional societies, such as the Saudi Chemists Society and the Saudi Pharmacists Society.

*c. Freedom of Religion.*—The government does not provide legal protection for freedom of religion, and such protection did not exist. Islam is the official religion, and Islamic law as interpreted by the government requires that all citizens be Muslims. Government leaders called for tolerance and moderation, and King Abdullah and other leaders made public pronouncements condemning religious extremism.

The government continued to prohibit the public practice of non-Muslim religions and put limits on religious practices of Shi’a and Sufi sects. In general, the government has stated that non-Muslims are able to worship privately, but have not offered clear guidelines as to what constitutes private worship. Conversion by a Muslim to another religion is considered apostasy. Apostasy is a crime under Shari’a and, according to the government’s interpretation, is punishable by death. In October 2004 a citizen, whom international NGO and local media reports claimed had converted to Christianity, was arrested in Hofuf and jailed. No further information was available at year’s end.

Citizens and especially foreigners widely believed in and sometimes practiced magic and superstition. However, under the government’s interpretation of Shari’a, the practice of magic was regarded as the worst form of polytheism, an offense for

which no repentance was accepted, and which was punishable by death. An unknown number of detainees were held in prison on the charge of “sorcery” or the alleged practice of “black magic” or witchcraft.

The practice of other schools of Sunni Islam was discouraged, and adherents of the Shi’a branch of Islam faced various forms of discrimination condoned by the government, including restrictions on religious practice and on the building of mosques and community centers (see also sections 1.e., 3, and 5).

The Shi’a Muslim minority, estimated to be between 10 and 15 percent of the citizen population, lived mostly in the Eastern Province, although a significant number also resided in Medina in the Western Province and in Najran in the southwest. Its members were subjected to officially sanctioned discrimination of various forms (see also sections 1.e., 3, and 5). Many Shi’a view the ultimate jurisdiction of Shari’a (Sunni) courts over intra-Shi’a family matters as impinging on their religious freedom (see section 1.e.).

An estimated 700 thousand Sulaimani Ismailis, a subset of Shi’a Islam, live in the country, primarily in Najran. Reportedly, at least 57 Sulaimani Ismailis are still in jail following rioting in Najran in 2000. Allegedly, the government discriminated against them by prohibiting them from having their own religious books, allowing religious leaders to declare them unbelievers, denying them government employment or restricting them to lower-level jobs, and relocating them from the Southwest to other parts of the country or encouraging them to emigrate.

Shi’a Ismailis (Seveners) in Najran reportedly were charged with practicing magic; however, the Shi’a Ismailis maintained that their practice adheres to the Seveners’ interpretation of Islam.

On September 17, the NGO Human Rights First Society (HRFS) reported that Ismailis in Najran paid allegiance to the king, but requested that the government provide equal employment opportunities for Ismailis and the release of the Najran prisoners. They also requested that those “exiled” from Najran after riots be allowed to return, and a university and a literary and cultural club be established in Najran to raise the level of education and awareness.

The government tolerated the celebration of the Shi’a holiday of Ashura and other minor Shi’a holidays in the eastern province city of Qatif. The police monitored the celebrations. No other public Ashura celebrations were allowed in the country, and many Shi’a traveled to Qatif or to Bahrain to participate in Ashura celebrations. The government continued to enforce other restrictions on the Shi’a community, such as banning Shi’a books. Shi’a were not allowed to teach religion to classes higher than the elementary grade level, and the government did not allow Shi’a to open private schools for girls.

There was discrimination in the availability of facilities for religious activities. The government issued permits to construct a few Shi’a mosques, such as a new and large mosque in Qatif, although the process was more cumbersome and took far longer for them than for Sunnis. The Shi’a have declined government offers to build state-supported mosques because the government would prohibit the incorporation and display of Shi’a motifs in any such mosques.

Significant numbers of Sufis in the Western Province engaged in technically illegal practices such as celebrating the Mawlid, or Prophet’s birthday, without government interference.

The government prohibited public non-Islamic religious activities. Non-Muslim worshippers risked arrest, lashing, deportation, and abuse for engaging in overt religious activity that attracted official attention. Though private worship by non-Muslims was ostensibly allowed, the government did not provide explicit guidelines (such as the number of persons permitted to attend and acceptable locations) for determining what constitutes private worship. Such lack of clarity, as well as instances of arbitrary enforcement by the authorities, forced most non-Muslims to worship in a manner so as to avoid discovery by the government or others. Authorities deported those detained for non-Islamic worship, almost always after lengthy detention (see section 1.f.).

Christians were detained for practicing their religion. For example, the newspaper *Al-Jazeera* reported that 40 Pakistani citizens, including one Muslim, were arrested on April 12 after conducting Christian religious services in an apartment in Riyadh. However, during the year, there were fewer raids, arrests, and detentions of Christians throughout the country than in the past.

Unlike in previous years, there were no deportations of resident Christians for providing an Arabic Bible to a citizen. Also, unlike in previous years there were no reports of religious police arrests, beatings, and confiscations of property of Christians for religious reasons following a Christian’s dispute with a citizen employer.

The government did not officially permit non-Muslim clergy to enter the country for the purpose of conducting religious services, although some came under other

auspices. Such restrictions made it very difficult for most non-Muslims to maintain contact with clergymen and attend services. Catholics and Orthodox Christians, who require a priest on a regular basis to receive the sacraments required by their faith, were particularly affected.

Proselytizing by non-Muslims, including the distribution of non-Islamic religious materials such as Bibles, was illegal. Anyone publicly wearing any kind of religious symbols risked a confrontation with the religious police.

Under the Hanbali interpretation of Shari'a, judges may discount the testimony of persons who are not practicing Muslims or who do not adhere to "correct doctrine" (see section 1.e.). Islamic religious education was mandatory in public schools at all levels. All students received religious instruction, which generally was limited to that of the Hanbali school of Islam. In accordance with the religious establishment's interpretation of Shari'a, women were prohibited from marrying non-Muslims, but men were permitted to marry Christians and Jews, as well as Muslims (see section 1.f.).

The government required noncitizens to carry legal resident identity cards (*iqamas*), which contained a religious designation for "Muslim" or "non-Muslim." There were reports that individual members of the religious police pressured sponsors not to renew employment-based legal resident identity cards of individuals based on religious affiliation.

During the holiday season, the press reported that shopkeepers in Riyadh sold Christmas cards under the counter. During the year the religious police prohibited the sale of cards and flowers for exchange on Valentine's Day.

*Societal Abuses and Discrimination.*—There were no public places of worship for non-Muslims in the country. While significant numbers of Christians reside in the country, there are very few Jews. There were no synagogues or churches in the country. While there have been no specific reports of physical violence against or harassment of Jewish persons, there were numerous reports of violence against and harassment of Christians, due to societal discrimination against foreigner workers coupled with religious discrimination. The majority of noncitizens in the kingdom were low-paid workers from developing countries (for example, the Philippines, India, and Ethiopia).

Although to a lesser extent than in the past, mosque preachers, whose salaries are paid by the government, frequently used strong anti-Israeli and anti-Semitic language in their sermons. There continued to be instances in which mosque speakers prayed for the death of Jews, including from the Grand Mosque in Mecca and the Prophet's Mosque in Medina.

Anti-Semitic editorial comment appeared in the print and electronic media. For example, references supporting the idea of "Jewish control over the world," and to the "Protocols of the Elders of Zion" appeared in the newspaper *Ar-Riyadh* on March 6. Cartoons typically used classic anti-Semitic imagery directed against the actions of Israel as a "Zionist" state, particularly in regard to treatment of Palestinians. Questions in the media were raised, at times whether modern Christians and Jews should be considered "people of the book" and thus due the respect required by the Koran. On December 16, according to an NGO, Shaykh Abdul al-Aziz Fawzan al-Fawzan, a professor of Islamic law at Al-Imam University, urged on Al-Majd television a nonracist, compassionate "hatred" toward infidels that would guide and reform them.

NGOs have reported on intolerance in the education system and, in particular that religious textbooks emphasized intolerance and hatred of all other religious traditions, especially Christianity and Judaism. Saudi officials claimed to have revised textbooks to remove content disparaging religions other than Islam. However, many recently published textbooks continued to contain language that was intolerant of Judaism, Christianity, and the Shi'a tradition in particular.

For a period of time in 2004, the Ministry of Tourism Web site contained a statement that Jews were banned from entering the country. However, no such ban was enforced in practice, and after this statement on the Web site was reported in the media, the government removed this language from the Web site and issued a statement denying that banning Jews was its policy.

On June 20, during a preparatory meeting for the December National Dialogue Forum in Abha in the Asir region, religious and intellectual leaders debated the relationships of Saudis with non-Saudis, and decided to replace in the country's religious and media pronouncements the word "infidel" with "other" when referring to non-Muslims or unbelievers.

King Abdullah, then the crown prince, began the National Dialogue initiative in 2003 in response to calls for real and practical reform in the kingdom. The December session was the culmination of 13 preparatory meetings held in the country between April and November where scholars and civil society members, both men and

women, discussed political reform, religious tolerance, and the role of women and youth in the country. The title of the Forum was “We and the Other: A National Vision for Dealing with World Cultures.” Over 700 male and female scholars and intellectuals representing civil society and the government attended the event, which sought to find ways to deal with other world cultures. The National Dialogue Center presented the recommendations the Forum generated to the king for his consideration.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Male citizens have the freedom to travel within the country and abroad; however, the government restricted these rights for women based on its interpretation of Islamic Law. All women in the country were prohibited from driving and were dependent upon men for transportation. Likewise, they must obtain written permission from a male relative or guardian before the authorities allow them to travel abroad (see section 5). The requirement to obtain permission from a male relative or guardian applied also to foreign women married to citizens or to the minor and single adult daughters of citizen fathers. Since 2001 women have been able to obtain their own identity cards; however, the government required that they obtain permission to receive a card from a male relative or guardian (see section 5). In March the press reported that by 2006 it would be compulsory for every citizen woman to have her own identification card with a photograph, terminating the current practice of women carrying family cards only listing their names. Citizen women who have valid passports can obtain identity cards without needing verification from a male guardian; however, if a woman does not have a passport, she needs a male guardian to verify her identity (see section 5). During the year, the government continued to issue national identity cards to women, despite a national campaign against the practice by some religious conservatives.

The restrictions on travel also applied to dual nationality children of citizen fathers. In cases where there were custody disputes between foreign citizen women and their citizen husbands, the husband was legally able to prevent the travel of the children out of the country. These restrictions on travel can continue even after female children reach adulthood, although the government has worked with foreign consular officials to overcome a father's or husband's refusal to permit the travel of adult foreign citizen female relatives. During the year, senior officials considered, on a case-by-case basis, allowing adult foreign citizen women to travel despite objections by their husbands, fathers, or other male relatives or guardians. However, government officials took long periods of time to make such decisions, and caused additional burdens and security concerns to those individuals attempting to leave the kingdom.

Foreigners typically were allowed to reside or work in the country only under the sponsorship of a citizen or business. Media reports in October announced an easing of this restriction for businessmen.

The government required citizens and foreign residents to carry identification cards. It did not permit foreigners to change their workplace without their sponsor's permission.

During the year the government continued to provide citizenship under Article 9 of the law on naturalization to some of the thousands of native residents who live in the country without possessing citizenship of any nation.

Collectively known as “Bidoons” (“without” in Arabic), these are native-born residents who lack citizenship due to an ancestor's failure to obtain Saudi nationality, including descendents of nomadic tribes such as the Anaiza and Shammar, some of whose ancestors were not counted among the native tribes during the reign of the kingdom's founder, King Abdul al-Aziz; descendants of foreign-born fathers who emigrated to the country before citizenship was institutionalized; and rural migrants whose parents failed to register their births. Because of their lack of citizenship, they were denied employment and educational opportunities, and had a limited ability to travel. Bidoons are among the poorest residents of the country, and reside at the margins of society.

The Basic Law prohibits employers from retaining foreign workers' passports; however, in practice most sponsors reportedly often retained possession of foreign workers' passports. Foreign workers must obtain permission from their sponsors to travel abroad. If sponsors were involved in a commercial or labor dispute with foreign employees, they may ask the authorities to prohibit the employees from departing the country until the dispute is resolved. In some contract disputes, sponsors used this as a pressure tactic to resolve disputes in their favor by forcing employees to accept nominal amounts of the money owed to them or by having foreign employees deported (see sections 5 and 6.c.).

The government seized the passports of all potential suspects and witnesses in criminal cases and suspended the issuance of exit visas to them until the case was concluded. As a result, some foreign nationals were forced to remain in the country for lengthy periods against their will.

Citizens may emigrate. The government prohibited dual citizenship; however, children who hold other citizenship by virtue of birth abroad were permitted to leave the country using non-Saudi passports. In October the government passed a new citizenship law by which long-term residents and other foreigners could obtain citizenship.

The government did not use forced exile; however, it previously revoked the citizenship of opponents of the government who reside outside the country (see section 3).

The government imposed travel bans on some of the reformers arrested in March 2004 (see sections 1.d. and 1.e.). The authorities sometimes confiscated the passports of suspected oppositionists and their families. In addition, the government has revoked the rights of some citizens to travel outside the country. In several cases, it has done so for political reasons without notifying the individual or providing opportunities to contest the restriction decision.

*Protection of Refugees.*—The Basic Law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The Basic Law provides that “the state will grant political asylum, if so required by the public interest.”

The UN High Commissioner for Refugees (UNHCR) Representative Office to the GCC countries reported that 364 Iraqi refugees still reside at the Rafha refugee camp situated a few miles from the Saudi-Iraqi border. The government has underwritten the entire cost of providing safe haven to the Iraqi refugees and continued to provide logistical and administrative support to the UNHCR. The UNHCR facilitated the spontaneous repatriation of 84 persons to Iraq from Rafha during the year and found no evidence of forcible repatriation. UNHCR has facilitated the spontaneous repatriation of more than eight thousand Iraqi refugees since 1991 (see section 1.c.). NGOs present in the camp included the Saudi Red Crescent and the International Islamic Relief Organization.

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

The Basic Law states that the government is established on the principal of *shura* or consultation, and requires the king and crown prince to hold open majlis. (A *majlis* is an open-door meeting held by the king, a prince, or an important national or local official where, in theory, any male citizen or foreign national may express an opinion or a grievance.) The Basic Law states that all individuals have the right to communicate with public authorities on any issue. This right to petition is interpreted by the government as a right to be exercised within traditional nonpublic means, i.e., not through the use of mass media. In practice, there were restrictions, as shown by the conviction of the three political reformers convicted of “sowing dissent and disobeying the ruler,” for overtly advocating democratic reform (see sections 1.e and 2.a.).

*Elections and Political Participation.*—Only a few members of the ruling family had a voice in the choice of leaders or in changing the political system. The government ruled on civil and religious matters within limitations established by the Basic Law, religious law, tradition, and the need to maintain consensus among the ruling family and religious leaders. During the year for the first time since 1963, the government organized elections throughout the country for half of the seats on municipal advisory councils.

The king serves as prime minister and appoints his crown prince and who serves as deputy prime minister. The king also appoints all other ministers, who in turn appoint subordinate officials with cabinet concurrence.

Male, nonmilitary citizens 21 years of age or older voted in the nationwide elections for 592 seats on 178 municipal advisory councils (half of the total seats) in February, March, and April. Women were not permitted either to vote or to stand for office. Unofficial estimates are that between 10 percent and 15 percent of eligible voters actually voted. The king completed the formation of the councils on December 15 by appointing 592 men to fill the other half of the council seats.

The *Majlis al-Shura*, consists of 150 appointed male members and is divided into 11 committees. This consultative council reviewed and voted on legislation and often suggested amendments to the government. The government generally accepted

amendments made by it. The *Majlis al-Shura* held hearings with some government officials to review the performance of their ministries and has the power to request documents from government ministries.

The Council of Senior Islamic Scholars is another advisory body to the king and the Cabinet (see section 1.e.). It reviews the government's public policies for compliance with Shari'a. The government viewed the council as an important source of religious legitimacy and took the council's opinions into account when promulgating legislation.

Communication between citizens and the government traditionally has been expressed through client-patron relationships and by affinity groups such as tribes, families, and professional hierarchies. During the year, King Abdullah held a variety of meetings with citizens throughout the country, including with women. Ministers and district governors can be approached for discussion at a majlis, which were held on a regular basis.

Since 2003, various oppressed groups, including women and Shi'a, have submitted petitions to then Crown Prince Abdullah calling for reform. The repercussions of the March 2004 arrest of the 12 political reformers (and the subsequent arrest of the lawyer for the three that stood trial) accused of signing a petition calling for the implementation of a constitutional monarchy among other things, and the long, drawn out appeal for a public trial, discouraged the submission of additional reform petitions.

The London-based extremist Committee for the Defense of Legitimate Rights (CDLR), established in 1993, and its splinter group, the Movement for Islamic Reform in Arabia (MIRA), established in 1996, continued to advocate overthrowing the monarchy by force. One of the founders of the CDLR, Abdullah al-Hamid, was among the 12 political reformers arrested in March 2004. They criticized the government, using the Internet and satellite radio stations. In December 2004 police arrested 21 persons for taking part in Jeddah in an antigovernment protest sponsored by MIRA, whose leader, Sa'ad al-Faqih, was a supporter of international terrorism. At year's end, the detainees were awaiting trial (see sections 1.d. and 2.b.).

Following a 2003 MIRA-sponsored demonstration in Riyadh, hundreds of citizens gathered October 23 in Riyadh, Jeddah, Dammam, and Ha'il. The government arrested most of the demonstrators, detained many of them for a period of time without sentencing, then convicted them on charges of public demonstrating and sentenced most to sentences ranging from imprisonment to flogging. At year's end there were no reports that the sentences had been commuted (see sections 1.d. and 2.b.).

There was one female advisor to the *Majlis al-Shura*. Women also advised members of the *Majlis al-Shura* in private, closed-door sessions or through female members of the royal family. After two women were elected in December to the board of the Jeddah Chamber of Commerce, the government appointed two additional women to the board. In addition a woman was elected to the board of directors of the Saudi Engineers Council. There continued to be women's councils to advise local governors on issues concerning women (see section 5). There were no women or religious minorities in the Cabinet, and at least 4 of the 150-member *Majlis al-Shura* were Shi'a, from a Shi'a population estimated to be between 10 and 15 percent of the country's citizens.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption on the part of some members of the royal family and the executive branch of the government. The absence of transparency in government accounts and in decision making encouraged this perception. There are no laws providing for public access to government information. Information concerning specific instances, allegations regarding corruption, or government actions against corruption was not available to the public.

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

The government viewed its interpretation of Islamic law as the only necessary guide to protect human rights. There was no system to register NGOs other than as charities.

The human rights NGO Human Rights First Society (HRF)—the Society for Protecting and Defending Human Rights in the Kingdom of Saudi Arabia—continued to operate without official government recognition. The local media on a number of occasions quoted the HRF president, Ibrahim Mugaiteeb, and reported on its operations. After having previously been deprived of his passport, by year's end, Mugaiteeb's passport was returned to him.

In March 2004 the king authorized the creation of and endowed the government-patronized National Society for Human Rights (NSHR), which characterized itself as a national nongovernmental organization with no affiliation to governmental in-

stitutions. In practice, the Society was not fully independent of the government. According to its chairman, who was himself a member of the government-appointed *Majlis al-Shura*, none of its members had ties to the executive branch of the government; they were consultants, professors, and retirees. Ten of its 41 members were women.

The NSHR has established offices in Jeddah, Dammam, Riyadh, and Jizan. By year's end, it claimed to have handled more than 5 thousand complaints, international as well as domestic, including "political injustices, administrative corruption, and reports by expatriate workers alleging abuse." A December 2004 press report noted that citizens' complaints against government bodies amounted to 25 percent of the cases, and foreign workers lodged 17 percent of the cases. The NSHR published weekly, monthly, quarterly, and annual reports in Arabic. The HRW criticized the NSHR for not supporting the political reformers—al-Doumani, al-Faleh and al-Hamed when they were in legal jeopardy.

The NSHR prefers to resolve cases by working with government agencies rather than bringing court cases. However, on May 18, in the first family case brought by the NHRS, the Jeddah General Court ruled in favor of two orphaned girls and their mother who had approached the NSHR seeking justice from the girls' half-brother and guardian. The girls had been living in a shelter for the poor because their brother denied them their share of their deceased father's pension and other assets (see sections 1.e. and 2.a).

On September 21, the press reported that the NSHR opened a new branch in Jizan, adjacent to the Yemeni border, following the opening of offices in the Eastern and Western Provinces. The press also reported that the NHRS suspended the membership of Ahmad al-Bahkaly because he was a government employee.

On September 12, the Council of Ministers, chaired by King Abdullah, approved the establishment of the Human Rights Commission (HRC). This specialized government organization has broad powers and reports directly to the King. Headquartered in Riyadh, the HRC was designed to protect and enhance human rights as well as raise awareness and ensure the implementation of human rights in line with Shari'a rule. On October 3, the king appointed Dr. Turki bin Khaled al-Sudairi as chairman of the commission with ministerial rank.

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

The law prohibits discrimination based on race, but not nationality, although racial discrimination occurred. There is legal and systemic discrimination based on gender. The government and private organizations cooperated in providing services for persons with disabilities; however, there is no legislation mandating public access. The Shi'a minority continued to suffer social, legal, economic, and political discrimination (see section 2.c.).

*Women.*—Shari'a prohibits abuse and violence against all innocent persons, including women. Although the government did not keep statistics on spousal abuse or other forms of violence against women, such violence and abuse appeared to be common problems based on anecdotal and media information available regarding physical spousal abuse and violence against women. Hospital workers reported that many women were admitted for treatment of injuries that apparently resulted from spousal violence; hospitals now are required to report any suspicious injuries to authorities.

In August the HRFS advocated on behalf of a battered woman seeking shelter from an abusive husband, the first case of its kind to be addressed by any human rights organization. At year's end the status of the case was not known. In May the NSHR won a family case on behalf of two orphaned girls and their mother (see section 4).

Foreign embassies continued to receive many reports that employers abused foreign women working as domestic servants. Some embassies of countries with large domestic servant populations maintained safe houses to which their citizens may flee to escape work situations that included forced confinement, withholding of food, nonpayment of salaries, beating and other physical abuse, and rape. Often female citizens are accused of committing many of the reported abuses. During the year, the media reported more frequently on cases involving domestic abuse of women, servants, and children, and there were more reports about employers being punished for abuse of domestic servants.

However, in general, the government considered such cases to be family matters and did not intervene unless charges of abuse were brought to its attention. It was almost impossible for foreign women to obtain redress in the courts due to the courts' strict evidentiary rules and the women and servants' own fears of reprisals.

For example, Nour Miyati, an Indonesian maid, accused her employer and his wife of tying her up for a month in a bathroom, beating her severely, injuring her



eyes and knocking out several teeth. Her significant physical injuries resulted in gangrene in her fingers, toes, and right foot. Her sponsor's wife was found culpable for beating her and sentenced to 35 lashes. Nour Miyati was sentenced to 79 lashes because she gave contradictory testimony. She had signed a statement (which she could not read) that contradicted her oral testimony, and her oral testimony was inconsistent. At year's end both sides were appealing the verdicts.

Prostitution is illegal. Some women, primarily noncitizens, engaged in prostitution. The extent of prostitution was not known (see section 5, Trafficking).

Law and custom discriminate against women. Although they have the right to own property and are entitled to financial support from their husbands or male relatives, women have few political or social rights and were not treated as equal members of society. There were no active women's rights groups. Women may not legally drive motor vehicles and were restricted in their use of public facilities when men were present. Women must enter city buses by separate rear entrances and sit in specially designated sections. Women risked arrest by the religious police for riding in a vehicle driven by a male who was not an employee or a close male relative. On July 24 the religious police issued a statement that they never have, and never will, employ women.

The law provides that women may not be admitted to a hospital for medical treatment without the consent of a male relative; however this was not generally enforced. By law and custom, women may not undertake domestic or foreign travel alone (see section 2.d.).

In public, a woman was expected to wear an *abaya* (a black garment that covers the entire body) and also to cover her head and hair. The religious police generally expected Muslim women to cover their faces, and non-Muslim women from other countries in Asia and Africa to comply more fully with local customs of dress than non-Muslim Western women. During the year, religious police admonished and harassed women who failed to wear an *abaya* and hair cover.

Women also were subject to discrimination under Shari'a as interpreted in the country, which stipulates that daughters receive half the inheritance awarded to their brothers. While Shari'a provides women with a basis to own and dispose of property independently, women often were constrained from asserting such rights because of various legal and societal barriers, especially regarding employment and freedom of movement. In a Shari'a court, the testimony of one man equals that of two women (see section 1.e.). Although Islamic law permits as many as four wives, polygamy was becoming less common due to demographic and economic changes. Islamic law enjoins a man to treat each wife equally. In practice, such equality was left to the discretion of the husband. The government placed greater restrictions on women than on men regarding marriage to noncitizens and non-Muslims (see section 1.f.).

Women must demonstrate legally specified grounds for divorce, but men may divorce without giving cause. In doing so, men were required to pay immediately an amount of money agreed upon at the time of the marriage, which serves as a one-time alimony payment. Women who demonstrate legal grounds for divorce also were entitled to this alimony. If divorced or widowed, a Muslim woman normally may keep her children until they attain a specified age: seven years for boys and nine years for girls. Children over these ages were awarded to the divorced husband or the deceased husband's family. Numerous divorced foreign women continued to be prevented by their former husbands from visiting their children after divorce.

Women had access to free but segregated education through the university level. They constituted more than 58 percent of all university students but were excluded from studying such subjects as engineering, journalism, and architecture. Men may study overseas; the law provides that women may do so only if accompanied by a spouse or an immediate male relative. However, this restriction was not enforced in practice, and many women studied overseas without a guardian.

During the year there was increased attention in the press to women's issues, including questions such as gender discrimination, domestic abuse, health, rising divorce rates, employment, driving, and legal problems women face in the business world. On December 1, two women were elected to the board of Directors of the Jeddah Chamber of Commerce, the first elections in the country in which women were candidates.

Most employment opportunities for women were in education and health care. Despite limited educational opportunities in many professional fields, some female citizens were able to study abroad and returned to work in professions such as architecture, law, and journalism. Many foreign women worked as domestic servants and nurses.

Women who wished to enter nontraditional fields were subject to discrimination. Women may not accept jobs in rural areas if there are no adult male kin present

with whom they may reside and who agree to take responsibility for them. Most workplaces in which women were present were segregated by gender. Frequently, contact with a male supervisor or client was allowed only by telephone or fax machine. However, the degree of segregation varied by region, with the central region having the most restrictions and the eastern and western regions being more relaxed. Despite gender segregation, the law provides women the right to obtain business licenses for work in fields that might require them to supervise foreign workers, interact with male clients, or deal on a regular basis with government officials.

While there is no law prohibiting women from obtaining licenses to open businesses their applications for licenses in most sectors are denied because most governing ministries do not have women's sections that can monitor the business. However, in hospital settings and in the energy industry, women and men worked together, and, in some instances, women supervised male employees. During the year the government allowed citizen female radio news broadcasters to work for the first time. A new labor law in September expanded the right of women to maternity leave and required that employers provide child care if they employed 50 or more female employees.

*Children.*—The government provided all children with free education and medical care. Children were segregated by sex in schools, usually beginning at the age of seven; however, schools were integrated through the fourth grade in some areas.

Abuse of children was a problem, although it was difficult to gauge the prevalence of child abuse, since the government kept no national statistics on such cases. Although in general the culture greatly prizes children, studies by citizen female doctors indicated that severe abuse and neglect of children appeared to be more widespread than previously reported. At least two NGOs, one in Riyadh and one in Jeddah, run shelters for women and children. The press has also raised national consciousness about the problem.

In 2003, the MOI's center for crime prevention and research reported that 21 percent of male children suffered from some form of abuse. The report stated that 34 percent of the abused suffered from some sort of psychological abuse, and 25 percent suffered physical abuse. The figures excluded female children and accusations of sexual abuse, as the ministry stated that the issues were too sensitive for public discussion.

The Ministry of Education continued to teach children their rights under the UN Convention on the Rights of Children.

*Trafficking in Persons.*—The country does not have an antitrafficking law, although most forms of trafficking are criminalized under existing statutes. On September 27, the government gazetted a new labor law stipulating that within the next six months, the government is to issue implementing regulations regarding domestic workers. These regulations will apply to citizen and foreign domestic workers. Currently, domestic laborers are not protected under the country's labor law. The majority of cases involving trafficking were settled out of court by mediation and settlements.

The government has not taken sufficient measures to improve its performance on trafficking issues, although it did name an official in the Ministry of Foreign Affairs to assume responsibility for trafficking in persons.

Foreign laborers', including domestic workers', passports were often illegally retained by their employers and can sometimes result in forced labor. Foreign nationals who have been recruited abroad have, after their arrival in the country, been presented with work contracts that specified lower wages and fewer benefits than originally promised. A reportedly small number of noncitizen women were thought to engage in prostitution, comprising a minor element of the trafficking problem in the kingdom (see sections 5, Women, 6.c., and 6.e.).

*Persons with Disabilities.*—The law provides hiring quotas for persons with disabilities. There is no legislation that mandates public accessibility; however, newer commercial buildings often included such access, as did some newer government buildings. The provision of government social services increasingly has brought persons with disabilities into the public mainstream. The government and private charitable organizations cooperated in education, employment, and other services for persons with disabilities.

During the year the government took a variety of steps promoting more rights and elimination of discrimination against persons with disabilities. The government established an endowment committee for children with disabilities, and a supreme council to deal with the affairs of the disabled, with the crown prince as chairman. Foreign criminal rings reportedly imported children with disabilities for the purpose of forced begging (see sections 5, Trafficking in Persons, 6.c. and 6.f.). There were

numerous government-sponsored centers for persons with disabilities, including organizations for children with Down's syndrome and autism.

Police generally transported persons with mental disabilities found wandering alone in public to their families or a hospital. Police asserted that, according to Islam, family members should be taking care of such individuals.

In September the press reported that the government was investigating allegations of abuse in which hundreds of naked mental patients at a Taif hospital were herded into a group shower where they were sprayed by a high-pressure stream from the water hose of a tanker truck. Such demeaning forced public nakedness was considered contrary to Shari'a.

*National/Racial/Ethnic Minorities.*—Although racial discrimination is illegal, there was substantial societal prejudice based on ethnic or national origin. Foreign workers from Africa and Asia were subject to various forms of formal and informal discrimination and had the most difficulty in obtaining justice for their grievances. For example, some bilateral agreements governed pay, benefits and work conditions. Consequently, pay scales for identical or similar labor or professional services were set by nationality such that two similarly qualified and experienced foreign nationals performing the same employment duties received varied compensation based on their nationalities.

*Other Societal Abuses and Discrimination.*—Under Shari'a as interpreted in the kingdom, sexual activity between two people of the same gender is punishable by death or flogging. The law also prohibits men from behaving like women or wearing women's clothes and women from wearing men's clothes (see section 1.c.).

Although the media has been urged to discourage discrimination against AIDS patients and those infected with HIV, the press reported that the government failed to provide proper medical treatment to HIV positive noncitizens and treated them poorly until their deportation. The Ministry of Health has set up three HIV centers that provided diagnostic and preventive services

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Basic Law does not address freedom of association. The government prohibited the establishment of labor unions; however, since 2001, the government has authorized the establishment of labor committees for citizens in local companies, including factories, having more than 100 employees; however, no practical steps have been taken to implement this decision.

*b. The Right to Organize and Bargain Collectively.*—The Basic Law does not provide for collective bargaining. Collective bargaining remained prohibited. Foreign workers comprised approximately 88 percent of the work force in the private sector. During the year, the Indonesian government suspended recruitment of its nationals by Saudi firms for several months. Recruitment only recommenced after the signing of an agreement between the two governments that detailed minimum salary levels for domestic workers and other worker rights.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, employers often retained possession of foreign laborers' passports and identity cards, giving them significant control over the movements of foreign employees. This practice sometimes resulted in forced labor, especially in remote areas where workers were unable to leave their places of work and cannot legally travel without an identity card. In addition some sponsors prevented foreign workers from obtaining exit visas to pressure them to sign a new work contract, or to drop claims against their employer for unpaid salary or benefits (see section 2.d.). Finally, some sponsors refused, for legitimate and nonlegitimate reasons, to provide foreign workers with a "letter of no objection" that would allow them to be employed by another sponsor for legitimate and nonlegitimate reasons.

There were many reports of workers whose employers refused to pay several months, or even years, of accumulated salary or other promised benefits. More foreign workers than in the past went to labor courts, which regularly ruled in favor of the workers. However, this was a long and difficult process and it was difficult to enforce judgments. Labor courts, while generally fair, sometimes took many months to reach a final appellate ruling, during which time the employer could prevent the foreign laborer from leaving the country. Often noncitizen workers engaged in a court case against their employers cannot legally work, placing an additional burden on them and compelling a negotiated settlement. Another tactic was for an employer to delay a case until a worker's funds were exhausted, and the worker was forced to withdraw his case in exchange for the employer allowing the worker to return to his/her home country.

The Ministry of Labor established the department for protection of foreign workers to address abuse and exploitation of foreign workers (such as sexual harassment, mistreatment and nonpayment of salaries). Workers may also submit complaints and seek help from the 37 labor ministry offices throughout the country.

In the first 6 months of the year, the labor minister had banned 52 companies from obtaining labor visas. Of these 43 were banned for trading in visas and others were banned for a variety of reasons, including delayed payment of more than 4 months of wages.

The law does not specifically prohibit forced or compulsory labor by children, and there were a few reports that it occurred (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor did not appear to be a problem, with the possible rare exceptions of forced child begging rings, and possibly family businesses. The government implemented a regulation requiring that all camel jockeys be at least 18 years of age, and there were indications that it was enforced.

Under a new labor law, no juvenile under the age of 15 can work in any vocational field unless he is the only family worker. There is no minimum age for workers employed in family-owned businesses or in other areas that are construed as extensions of the household, such as farming, herding, and domestic service.

Children under the age of 18 may not be employed in hazardous or harmful industries, such as mining, or industries employing power-operated machinery. While there is no formal government entity responsible for enforcing the minimum age for employment of children, the Ministry of Justice has jurisdiction and has acted as plaintiff in the few cases that have arisen against alleged violators. However, in general, children played a minimal role in the work force.

Child beggars were reportedly often noncitizens who had been trafficked into the country for that purpose or are Hajj or Umra overstayers. The Ministry of Social Affairs maintained special offices in both Mecca and Medina to combat the growing problem of child beggars.

*e. Acceptable Conditions of Work.*—While there is no official minimum wage for citizen workers, the unofficial private sector minimum wage was \$320 (1,200 riyals) per month until October. However, once the king's 15 percent public sector wage increase took effect on October 4, the chambers of commerce announced a voluntary private sector wage increase to \$400 (1,500 riyals) per month. A defacto minimum wage has been set based on the minimum monthly contribution to the pension system which is now 1,500 riyals a month. For noncitizen workers, there was no official minimum wage. Where they exist, bilateral agreements set wages. Individual contracts also set wages which vary according to the type of work performed and the nationality of the worker (see section 5). Labor regulations establish a 48-hour workweek at regular pay and allow employers to require up to 12 additional hours of overtime at time-and-a-half pay. Labor law provides for a 24-hour rest period, normally on Fridays, although the employer may grant it on another day. The new labor law increased annual leave for citizen employees from 14 to 21 days and provided a minimum 6-week maternity leave for female citizen employees and new requirements to provide child care at places of employment. The average wage generally provided a decent standard of living for a citizen worker and family.

During the year, sources have produced varying estimates of the actual rate of citizen unemployment. The minister of labor stated the unemployment rate was only 5 percent (because very few citizens enrolled in a recent job placement program). The minister of finance claimed unemployment was 9.6 percent. In October in his first televised interview, the king claimed that only 100 thousand citizens were seeking jobs but could not find them. Some bankers believed the unemployment rate was 20 percent and a prominent royal and business leader recently stated the number was closer to 30 percent. None of these estimates included women, who were prohibited from working in the majority of business sectors and positions.

Approximately 80 percent of all working citizens worked directly for the government. If one adds the parastatals, like Saudia Airline and Saudi Aramco, the military, and the farmers who depend on subsidies nearly all citizens worked for the government in one way or another. However, the private sector was the reverse image. According to the government, citizen workers accounted for only 12 percent, less than 800 thousand of the approximately 6.76 million persons employed in the private sector; foreign nationals held the remaining 88 percent of the jobs (see section 6.b.).

The law prohibits employers from holding their employees' passports without the employee's consent; however, this law was not well known to foreign employees and, as a result, was frequently violated.

Labor regulations require employers to protect most workers from job-related hazards and disease. However, foreign nationals reported frequent failures to enforce health and safety standards. Farmers, herdsmen, domestic servants, and workers in family-operated businesses were not covered by these regulations. Workers risked losing employment if they removed themselves from hazardous work conditions.

Foreign nationals who have been recruited abroad have, after their arrival in the country, been presented with work contracts that specified lower wages and fewer benefits than originally promised. Other foreign workers have signed contracts in their home countries and later were pressured to sign less favorable contracts upon arrival. Some employees reported that, at the end of their contract service, their employers refused to grant permission to allow them to return home. Foreign employees involved in disputes with their employers may find their freedom of movement restricted (see sections 2.d and 6.a.). Recognizing this issue, the authorities have created a booklet on foreign workers' rights that reportedly will be distributed at the airports and foreign embassies in the country.

The labor laws, including those designed to limit working hours and regulate working conditions, did not apply to foreign domestic servants, who may not seek the protection of the labor courts. However, the bilateral labor agreements stipulate work conditions which provide for one day of rest per week. There were credible reports that female domestic servants sometimes were forced to work 16 to 20 hours per day, 7 days per week. There were numerous confirmed reports of maids fleeing employers and seeking refuge in their embassies or consulates (see section 5). Foreign embassies continued to receive reports of employers abusing domestic servants. Such abuse included withholding of food, beatings, and other physical abuse, and rape (see section 5).

The government has established welfare shelters to house female domestic servants who flee their place of work. The government offered arbitration between the worker and employer and investigated allegations of abuse. Allegations were either settled in court or through negotiation.

The ongoing campaign to remove illegal immigrants from the country has done little to reduce unemployment or to increase the number of jobs held by citizens. Illegal immigrants worked in positions which most citizens considered unworthy. The government carried out the campaign to remove the illegal aliens by widely publicizing its enforcement of existing laws against both the illegal aliens and the citizens employing or sponsoring them.

The effect of the expeditious repatriation of some illegal immigrants and the legalization of others has been to improve overall working conditions for legally employed foreigners. Illegal immigrants generally were willing to accept lower salaries and fewer benefits than legally employed immigrants. The departure or legalization of illegal workers reduced the competition for certain jobs and thereby reduced the incentive for legal immigrants to accept lower wages and fewer benefits as a means of competing with illegal immigrants. Furthermore, their departure or legalization removed a large portion of the class of workers most vulnerable to abuse and exploitation because of their illegal status.

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## SYRIA

Syria, with a population of approximately 18 million, is a republic under the authoritarian presidential regime of Bashar al-Asad. The president, with counsel from a small circle of security advisors, his ministers, and senior members of the ruling Ba'ath Party, makes key decisions regarding foreign policy, national security, internal politics, and the economy. An unopposed referendum in July 2000 confirmed President al-Asad for a seven-year term. The president appoints vice presidents, the prime minister, deputy prime ministers, and the cabinet, or Council of Ministers. The law mandates the primacy of Ba'ath party leaders in state institutions and the parliament; party leaders influenced all three branches of the government. The parliament, elected in March 2003, may not initiate laws but only assess and at times modify those proposed by the executive branch. The constitution provides for an independent judiciary; however, courts were regularly subject to political influence and bribery. The government maintained effective control of the security forces, and members of the security forces committed numerous, serious human rights abuses.

The government's human rights record remained poor. On October 19 and December 12, the UN issued reports identifying high-ranking Syrian security officials as suspects in the February assassination of the former Lebanese prime minister, Rafiq al-Hariri. During the year there was an increase in arbitrary arrests carried out by authorities. The following human rights abuses were reported:

- absence of right to change government
- arbitrary or unlawful deprivation of life
- torture in prison
- poor prison conditions
- arbitrary arrests and detentions
- absence of rule of law
- severely restricted civil liberties—freedoms of speech, press, assembly, association, and movement
- limited freedom of religion
- government corruption and lack of transparency
- violence and societal discrimination against women
- discrimination against the Kurdish minority
- severely restricted workers' rights

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year there were reports of arbitrary or unlawful deprivation of life. On October 19 and December 12, Chief Investigator for the UN International Independent Investigation Commission (UNIIC) Detlev Mehlis presented two interim reports on the February 14 assassination of former Lebanese prime minister Rafiq al-Hariri to UN Secretary-General Kofi Annan. Hariri and 22 other individuals killed in a blast in central Beirut. The October report concluded that evidence pointed toward the involvement of Syrian authorities in the assassination of al-Hariri. The report also made it clear that Syrian officials, while purporting to cooperate, deliberately misled investigators. In response to the UN report, citizens rallied in front of the Central Bank in Damascus on October 24, protesting its findings (see section 2.b), and in smaller demonstrations throughout November and early December. The December report stated that the ongoing investigation reinforced the conclusions of the October report and requested a six-month extension, noting Syrian authorities' "reluctance and procrastination" and citing its attempt to "hinder the investigation internally and procedurally." The UN Security Council passed Security Resolution 1644 on December 15, extending the UNIIC's mandate.

According to local human rights groups, four persons died in detention due to torture or mistreatment by security services during the year. On March 28, Ahmed al-Masalmeh, a former Muslim Brother, died from a heart attack related to torture while in detention. Prison officials also denied him medication for a heart and kidney condition.

The London-based Syrian Human Rights Committee (SHRC) reported that Safwat Abdullah Hawsh died on March 11 in Lattakia after policemen from the Salibeh police station beat him unconscious outside a café.

The SHRC reported that Adnan Ahmad al-Sallal died of a heart attack on August 14 in Hama Central Prison, after prison officials neglected to provide timely medical treatment.

Human rights organizations reported in December that Yasir Mushimish, a prisoner at Saidnaya prison, died of unknown causes in a military clinic on December 15, 10 days after being admitted for care.

In 2004 international and Syrian human rights organizations reported that 13 Syrian citizens died in detention due to torture or mistreatment by the security services. Six of the 13 were reportedly Kurdish men in the military who died under suspicious circumstances. In March 2004 five died in detention after Kurdish riots.

In 2004, according to local human rights organizations, Firas Abdallah died in police custody in Damascus as a result of beatings. Human rights lawyers continued their civil case against the police and the Ministry of Interior on behalf of the deceased, but no hearings were held on the case during the year. Under Syrian law, it is difficult to successfully sue the government successfully.

No charges were brought against an off-duty Sunni military officer and his brother for the October 2004 killing of two Assyrian Christians in Hassakah Province. The conflict began when the military officer tried to extort money from one of the Assyrians. Some members of the Assyrian community violently protested the murders; 12 protestors were arrested.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances during the year. In May 2004 Nabil al-Marabh disappeared after registering for military service; Amnesty International (AI) reported that as of August,

unofficial sources stated that he was being held in Adraa prison. Many persons who disappeared in the past were believed to have died or to be in long-term detention (see section 1.e.).

The government has not punished any members of the security forces for their roles in prior abductions and disappearances.

The government continued to withhold new information on the welfare and whereabouts of persons who have disappeared or held incommunicado for years; little is known other than the approximate date of their detention. A local human rights organization recorded at least three thousand disappearance cases of Syrians and Palestinians since the late 1970s in the country, and estimated that the actual number may be several thousands more.

In 1999 the government claimed it had released all Palestinian, Jordanian, and Lebanese citizens reportedly abducted from Lebanon during and after its civil war (1975–91). Human Rights Watch (HRW) maintains that an estimated 17 thousand Lebanese citizens and stateless Palestinians were “disappeared” by security forces in the early 1990s alone. Various nongovernmental organizations (NGOs) and family members of those who allegedly remained in prison continued to dispute the government’s claim that all abductees had been released (see section 1.d.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the penal code provides punishment for abusers. Under article 28 of the constitution, “no one may be tortured physically or mentally or treated in a humiliating manner.” However, security forces continued to use torture frequently.

During the year local human rights organizations cited numerous cases of security forces torturing prisoners, including the case of 200 Kurds on trial in a Damascus military court for their involvement in the March 2004 riots in Qamishli. During the proceedings, a number of detainees complained of torture and displayed their injuries to the judge. Torture of political detainees also was common.

The Paris-based International Federation for Human Rights (FIDH) reported that a French man of Lebanese origin was detained on September 5 at the Syrian-Lebanese border by Syrian authorities and was later transferred to Detention Center 235 (Palestinian Branch). The man, identified in press articles as Charles F., was held for 10 days, during which he was reportedly beaten with electrical cables, kicked, and forced to watch other prisoners being tortured. On December 15, he filed a complaint against Syrian authorities in a Parisian court.

Multiple human rights organizations reported that Seraj Khalbous, an Islamist, was tortured for approximately one month following his September 12 detention, resulting in several weeks of hospitalization and partial paralysis.

According to a December 14 AI report, security forces tortured foreign national Yasin Taha, and forced him to “confess” to being a leading member of al-Qa’ida after his 2003 arrest. The reasons for his arrest were unknown. AI later reported that he was turned over to Tunisian authorities in December.

Family members of 45 accused Islamists from the villages of Qatana, al-Otaiba, and al-Tal reported to human rights organizations during the year that their relatives had been tortured at the time of their arrests in 2004.

In April 2004 five Kurdish students detained by the police were reportedly beaten and subjected to electric shocks for three days (see section 5). AI reported the case of four young men arrested in 2003 in Daraa and held in Saidnaya prison, where they were subjected to various forms of torture and ill-treatment, including having their fingers crushed, beatings to the face and legs, dousing with cold water, standing for long periods of time during the night, subjected to loud screams and beatings of other detainees, stripped naked in front of others, and not being allowed to pray and grow a beard.

Former prisoners, detainees, and reputable local human rights groups, reported that torture methods included electrical shocks; pulling out fingernails; burning genitalia; forcing objects into the rectum; beating, sometimes while the victim was suspended from the ceiling; alternately dousing victims with freezing water and beating them in extremely cold rooms; hyperextending the spine; bending the detainees into the frame of a wheel and whipping exposed body parts; and using a backward-bending chair to asphyxiate the victim or fracture the victim’s spine. Torture was most likely to occur while detainees were held at one of the many detention centers operated by the various security services throughout the country, particularly while authorities attempted to extract a confession or information.

Past victims of torture have identified the officials who tortured them, up to the level of brigadier general. In past years, when allegations of excessive force or physical abuse were made in court, the plaintiff was required to initiate a separate civil suit against the alleged abuser for damages. However, no action was taken against the accused. There were no confirmed cases of new allegations during the year. In

December a French citizen filed a complaint with French courts, claiming to have been tortured during his September detention in Syria (see section 1.c.). Courts did not order medical examinations for defendants who claimed that they were tortured (see section 1.e.).

August 2004 marked the government's accession to the UN Convention Against Torture, but the government's objection to article 20 prevents outside observers from coming to the country to investigate allegations of torture within the country.

Police beat and mistreated detainees during the year. On March 11, Safwat Abdullah died following a police beating in Lattakia (see section 1.a.). On November 12, human rights activist Dr. Kamal al-Labwani reported to other human rights observers that he had been struck four times by a security official while in political security custody and had not been given food for four days. Authorities at Damascus International Airport detained Dr. al-Labwani on November 8 following a three month-long trip abroad (see section 1.d.) that included a visit to Washington.

*Prison and Detention Center Conditions.*—Prison conditions generally were poor and did not meet international standards for health and sanitation. At some prisons security officials demanded bribes from family members. Overcrowding and the denial of food remained problems at several prisons. According to the Arab Organization for Human Rights (AOHR), Abdul Karim Dhaon, an official at the Ministry of Health, was arrested in May 2004 for allegedly writing a report about the unacceptable conditions at the prisons he supervised. Dhaon was released in December 2004, and his case was on appeal at year's end. According to HRW, prisoners and detainees were held without adequate medical care, and some prisoners with significant health problems reportedly were denied medical treatment. Some former detainees reported that the government denied political prisoners access to reading materials, including the Koran.

There were separate detention facilities for men, women, and children; several reports cited minors being held in adult facilities. Pretrial detainees, particularly those held for political or security reasons, were usually held separately from convicted prisoners. Facilities for political or national security prisoners generally were worse than those for common criminals. Released political detainees confirmed reports of poor prison conditions, including overcrowded cells and a shortage of beds.

The government did not permit any independent monitoring of prison or detention center conditions; however, diplomatic and consular officials were granted access in some cases.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, in practice these activities persisted and remained significant problems.

*Role of the Police and Security Apparatus.*—The role of the security services extends far beyond strict security matters due to a state of emergency, which has been in place since 1963. The government justifies the ongoing Emergency Law on the basis of its war with Israel and past threats from terrorist groups. Syrian Military Intelligence and Air Force Intelligence are military agencies; the Ministry of Interior exercises nominal control over general security, state security, and political security.

The Ministry of Interior controlled the police forces, which consist of four separate divisions: emergency police, traffic police, neighborhood police, and riot police.

There are four major branches of security forces—Political Security Directorate (PSD), Syrian Military Intelligence (SMI), General Intelligence Directorate (GID), and Syrian Air Force Intelligence (SAFI)—all of which devote some of their overlapping resources to monitoring internal dissent and individual citizens. The four branches operate independently and generally outside of the control of the legal system.

Corruption continued to be a serious problem throughout the police forces and security services. Human rights lawyers and family members of detainees cited solicitation of bribes for favorable decisions and provision of basic services by government officials throughout the legal process in both courts and prisons. Traffic police officers regularly and openly solicited bribes from drivers.

*Arrest and Detention.*—Upon arrest, an individual is brought to a police station for processing and detained until a trial date is set. At the initial court hearing, which may be months or years after arrest, the accused may retain an attorney at personal expense or be assigned a court-appointed attorney. The individual is then tried in a regular court, where a judge renders a verdict (see section 1.e.). While the prison code provides for prompt access to family members, human rights organizations and families reported inconsistent application of the code, with reports of some families waiting up to a year for access to relatives.

The 1963 Emergency Law authorizes the government to conduct preventive arrests and overrides constitutional and penal code provisions against arbitrary arrest



and detention, including the need to obtain warrants. In cases involving political or national security offenses, arrests were often carried out in secret. Suspects were detained incommunicado for prolonged periods without charge or trial and denied the right to a judicial determination regarding pretrial detention. Human rights organizations reported that many detainees were not informed of charges against them until their arraignment, which often was months after their arrest. Additionally, those suspected of political or national security offenses were arrested and prosecuted under ambiguous and broad articles of the penal code and subsequently tried in either the criminal or security courts. There were reliable reports that the government did not notify foreign governments when their citizens were arrested or detained, or did so only after the person was released.

Arrest and search warrants exist only for nonsecurity related cases; however, police bypassed this requirement in many instances by claiming security or emergency grounds for entry.

Human rights organizations documented the arrest of at least 80 individuals by security forces for alleged ties to radical Islam during the year. According to the 2005 HRW report, more than 40 students in Lattakia were arrested and claimed that they were tortured while in custody. Human rights organizations estimated that the total arrests based on suspicion of extremist Islamist involvement reached at least 500 during the year.

In January authorities arrested, Ammar Hussein Fakhri, Majid Bakri Suleyman, and Ahmad Ali al-Masalmeh, upon their return from political exile, despite guarantees by Syrian embassies abroad that they could return safely. Masalmeh was tortured and later died on March 28 (see section 1.a.).

Also in January Abdulrahman al-Musa, who had been affiliated with the Muslim Brotherhood, was detained by Syrian authorities upon his return to the country.

According to 2005 HRW report, on February 24, security forces arrested Salim al-Salim, an activist from Homs in the Society of Human Rights in Syria. He remained in custody at year's end.

On March 22, 40 Kurds were detained after incidents during celebration of the Kurdish New Year in Aleppo (see section 5). They were released on March 30.

In late March authorities detained Ahmet Muhammad Ibrahim following his return from Turkey, where he was acquitted of membership in Kongra Gel (formerly known as the PKK). He remained in custody at year's end.

In April the government began a sustained crackdown on civil society and human rights activists that continued throughout the year. On April 19, human rights activist Nizar Rastanawi disappeared while returning to his home in Hama. Initially, security forces denied any knowledge of his whereabouts; however, they admitted several weeks later that he was detained. Rastanawi appeared before the State Security Court on November 20 to face charges of disseminating false information to undermine public morale. He remained in custody at Saidnaya prison at year's end.

In April and May, authorities arrested political exiles Shayish Ali al-Tayyar, Muhammad Fayiz al-Hursh, Hazem Abdul-Kafi al-Jundi, and Mahmoud Samaq upon their return to the country, despite reported assurances of safe return by Syrian embassies abroad. They remained in government custody at year's end.

On May 3, Muhammad Osama Sayes, the son of a Muslim Brotherhood member, was detained following his return to the country from the United Kingdom. Sayes appeared in the Supreme State Security Court (SSSC) on December 4; his trial was adjourned until February 2006.

On May 10, prominent Kurdish Sheikh Mashook al-Khaznawi disappeared from his Damascus office. On June 1, he was found murdered near the town of Deir ez-Zur. The circumstances surrounding his murder remained unclear; authorities arrested five students from an Islamic institute in connection with the death, but Kurdish activists and human rights observers said that military intelligence agents detained and tortured him to death. Other observers speculated that Khaznawi may have been killed in a family vendetta, possibly aggravated by agents of the security services. Reaction to his murder created unrest in the predominantly Kurdish province of al-Hasaka. On June 4, Sheikh Riyad Drar al-Hamood, a cleric and civil rights activist, was arrested after making a speech at Khaznawi's funeral. The SSSC charged al-Hamood on December 4 with one count of degrading national pride in a time of war, one count of inciting conflict among the country's various religious and ethnic groups, and one count of forming a secret society. His trial was adjourned until January 2006. On June 5, Kurds protested Khaznawi's murder in the town of Qamishli. The protesters clashed with police, military, and security personnel, which led to the arrest of approximately 60 Kurds, including women and children. They were released in August but faced trial at the Qamishli Criminal Court (see section 5).

On May 16, Ali Abdullah, human rights activist and member of the Jamal al-Atassi Forum (a predominantly secular group encouraging dialogue among political parties and civil society to promote reform), was arrested after reading a statement from exiled Muslim Brother leader Saad al-Din al-Baiyanouni at a May 7 forum meeting. Abdullah was later released as part of a November 3 mass amnesty. Eight board members of the forum were arrested on May 24 in connection with the reading of the statement. They were released in June.

On May 22, president of the Arab Human Rights Organization Muhammed Radoun was arrested a day after he appeared on Al-Jazeera Television, highlighting the need for reform in the country. Radoun was released on November 3 as part of a mass amnesty at the end of Ramadan.

On May 26, civil society activist Mohammed Hassan Dib was arrested. According to human rights organizations, the Hama Criminal Court transferred his case to a military judge on November 29 due to lack of jurisdiction. His case was unresolved at the end of the year, and he remained imprisoned.

On May 29, Habib Saleh was arrested and later charged by a military court for publishing antigovernment material on the Internet. He remained in custody at year's end in Adraa prison.

In July authorities arrested 16 women from ar-Raqqa Province following their protest of government expropriation of their farmland. Four of the women were released several days after arrest, while 12 others were held for approximately 1 month (see section 2.b).

On July 10, authorities arrested Hasan Zeino for carrying copies of a newsletter from the unlicensed opposition umbrella group National Democratic Front. Zeino was released on bail on August 24 and awaited a military court verdict on charges of "possession of publications of a prohibited organization."

On July 25, authorities arrested Yusuf Mohammad Ahmad Qarmo upon his return from Iraq, where he had lived since the age of nine. In early August, Mohammad Abdulkader al-Taweel was also arrested upon his return from Iraq, where he had also lived since childhood. Both men remained in detention at year's end.

On July 27, Mohammed Ali al-Abdullah, the son of detained activist Ali al-Abdullah, was arrested in a suburb of Damascus. According to press reports, he and Yassin al-Hamwi, father of a political prisoner, were arrested on charges of organizing a group calling for the release of all political prisoners. Both men were detained for 20 days and convicted on September 27 for defaming the homeland; their sentence was 10 days, which was covered by time served.

On September 5, Syrian authorities detained a French citizen of Lebanese origin, identified in press reports as Charles F., at the Syrian-Lebanese border for 10 days. He accused Syrian authorities of torture (see section 1.c).

In mid-September, government authorities arrested writer Dr. Mahmoud Sarem. At year's end he was detained in the political branch of Adraa prison awaiting charges and court assignment.

On September 12 authorities detained five suspected Islamists. One of the men, Seraj Khalboos was later released after hospitalized for injuries received during torture in custody (see section 1.c.). The other four men remained in custody.

On September 19, lawyer Thaer al-Khatib attempted to carry out a court order to remove a bust of Hafez al-Asad from his client's property. He and his client were both arrested by government authorities and later released. Khatib faced disbarment by the Syrian Bar Association (see section 1.e.).

In mid-October authorities arrested Ahmad Qattee' at the Syria-Jordan border near the city of Dar'a because of his father's alleged affiliation with the Muslim Brotherhood. He remained in custody at year's end.

On November 8, government authorities detained prominent opposition activist Kamal al-Labwani upon his arrival in Damascus following a three month-long trip abroad. On November 12, Labwani was arraigned before the Damascus Criminal Court and charged with two counts of slandering the country in the media, one count of degrading national pride in a time of war, one count of inciting conflict among the country's various religious and ethnic groups, and one count of forming a secret society. His arrest came days after the government announced the release of 190 political prisoners to mark the Muslim 'Eid al-Fitr holiday, signifying the end of Ramadan, a traditional time for amnesties or pardons (see section 1.d.). He remained detained at Adraa prison at year's end.

On November 13, approximately 12 men were detained by police authorities for several hours following a spontaneous demonstration by family members of SSSC defendants (see section 2.b.). On November 14, protester Mohamed Abd el-Halim al-Kelany was redetained by Air Force Security and released in mid-December.

In mid-November authorities detained Dr. Mahmoud al-Rashid upon his return from exile in Iraq, after Syrian authorities detained his wife for 10 days. He remained in detention at year's end.

On November 17, security forces arrested Kurdish cultural activist Nasraddin Ahma at his workplace in the town of Qamishli. At year's end Ahma remained in custody.

On December 7, government authorities arbitrarily detained Hayan Abdul-Samad at Damascus airport upon his return to the country from Saudi Arabia. At year's end Abdul-Samad continued to be detained with a serious nerve disease and in need of medical care.

In December security forces arbitrarily arrested Mahmud Yusuf, a student in the University of Aleppo. His whereabouts and reason for arrest remained unknown at year's end.

On December 23, security forces detained Ghiab Habab after he pointed out the State Security Court to a group of tourists. He remained in custody at year's end.

During 2004, security forces conducted mass arrests of suspected Islamists in Damascus, Aleppo, Hama, Hayaleen, and Qatana. In March 2004 the SSSC sentenced to 2 years in prison 33 persons who had been arrested in Aleppo in August 2003 and accused of belonging to the Muslim Brotherhood.

In 2004 security services also conducted mass arrests of Kurds in Hassakah Province, Aleppo, Damascus, and other areas. In 2004 human rights organizations and Kurdish groups reported that one thousand to two thousand Kurds were detained in the aftermath of the March 2004 riots. On March 30, President Asad pardoned 200 of the remaining detained Kurds involved in the riots (see section 1.e.). Most were freed after a few months of detention. At year's end less than 100 Kurds arrested in the aftermath of those riots reportedly remained detained.

In April 2004 military security arrested human rights activist Aktham Naiissa, head of the Committee for the Defense of Democracy, Freedom, and Human Rights (CDF), for his involvement in a protest in front of parliament in March and for communiqués issued by the CDF critical of the government's treatment of the Kurdish minority (see section 2.b.). Naiissa was held at Saidnaya prison without access to his lawyer and was tried by the SSSC; he was released on bail in August 2004. Naiissa was acquitted on June 26 of spreading false information about the government and opposing the Ba'ath Party's rule.

In November 2004 Abdul Sattar Qattan was arrested by the military intelligence branch in Aleppo for his alleged involvement with members of the Muslim Brotherhood and for distributing aid to ex-detainees. On October 23, Qattan was brought before the SSSC after being detained for 11 months under ill conditions and tried pursuant to law 49 of 1980 that makes membership or support of Muslim Brotherhood a capital offense. Qattan appeared again before the SSSC on December 18; his case remained unresolved at the end of the year.

Detainees have no legal redress for false arrest. The authorities detained those critical of the government under the Emergency Law and charged them with treason.

In cases before regular courts, judges render verdicts. There are no juries.

Defendants in civil and criminal trials have the right to bail hearings and possible release from detention on their own recognizance. However, this right was not applied consistently throughout the legal system. Dr. Kamal al-Labwani, for example, was not granted bail by the criminal court judge presiding over his case. Bail was generally not allowed for those accused of "state security offenses." One exception was the release from the SSSC of Aktham Naiissa in August 2004 on bail. Unlike defendants in regular criminal and civil cases, security detainees did not have access to lawyers prior to or during questioning.

Lawyers were not ensured access to their clients before trial (see section 1.e.).

Many persons who disappeared in past years were believed to be in long-term detention without charge or possibly to have died in detention. Many detainees brought to trial were held incommunicado for years, and their trials often were marked by irregularities and lack of due process. Many criminal suspects were held in pretrial detention for months and may have had their trials extended for additional months. Lengthy pretrial detention and protracted court proceedings were caused by a shortage of available courts and the absence of legal provisions for a speedy trial or plea bargaining (see section 1.e.).

The government continued threatening or detaining the relatives of detainees or of fugitives to obtain confessions, minimize outside interference, or prompt a fugitive's surrender. There were unconfirmed reports that security personnel forced prisoners to watch relatives being tortured in order to extract confessions. Human rights organizations also reported at least three arrests of family members and

friends who had inquired to authorities about the welfare and whereabouts of political detainees.

The SHRC cited reports in May that Colonel Hafez Sultan, head of military intelligence in Houran Province, had threatened the relatives of political exiles with job loss if they did not disown their exiled family members.

On September 3, Nadia al-Satour, Heba al-Khaled, and Rola al-Khaled were arrested after authorities failed to find their husbands, who were alleged to be involved with the Islamic organization Jund al-Sham. The three women remained in custody at year's end.

In November the father of political detainee Seraj Khalboos was threatened with torture by authorities and compelled to sign a statement saying that his son was a member of Jund al-Sham.

In November authorities detained the wife of Dr. Mahmoud al-Rashid for a number of weeks to compel him to return from Iraq.

In December the UNHCR stated in its second interim report that it had received credible reports that authorities had arrested and threatened close relatives of Hussam Taher Hussam, a "recanting" witness in the UNHCR investigation.

Security services also threatened families or friends of detainees to ensure their silence, force them to disavow publicly their relatives, or force detainees into compliance. For example, security services told the family of a recently arrested Muslim Brother not to talk about the case, according to human rights contacts.

The precise number of political prisoners is unclear. Human rights groups estimated that there were at least 325 political prisoners remaining in Saidnaya prison, including Kurds, Islamic fundamentalists, and a number of civil society activists. At least 150 political prisoners were held in Adraa prison, including the 6 "Damascus Spring" prisoners. In addition, human rights organizations noted that an undetermined number of persons were detained in other prisons, security service detention centers, or other secret detention facilities; estimates range from several hundred to one thousand.

There also were Jordanian, Lebanese, and Palestinian political prisoners. A number of human rights organizations estimated that there were between 25 and 250 remaining Lebanese prisoners in Syria. Estimates of the numbers of prisoners were difficult to confirm because different branches of the security services, which maintained their own prison facilities, held a significant number of prisoners, and there was no centralized tracking system for prisoners. Prisoners were frequently held for extended periods of time without trial and without information given to their families. Estimates were also difficult to confirm because the government did not verify publicly the number of detentions without charge, the release of detainees or amnestied prisoners, or the subsequent sentencing of detainees to prison (see section 1.e.).

Former prisoners were subject to a so-called "rights ban," which begins from the day of sentencing and lasts for seven years after the expiration of the sentence in the case of felony convictions. Persons subjected to this ban were not allowed to vote, run for office, or work in the public sector; they often also were denied passports. In practice restrictions could continue beyond that period.

*Amnesty.*—On February 12, the president ordered the release of 55 political prisoners who had spent up to 20 years in jail. Most freed prisoners were being held for, or had been convicted of, belonging to an Islamist group.

On March 30, a presidential pardon was announced for 312 political prisoners, including many Kurds who had been detained since March 2004.

A November 3 presidential decree granted amnesty to 190 political prisoners, coinciding with the end of the holy month of Ramadan. Most freed prisoners were Islamists and had been long-term detainees. Local human rights groups reported that at least 500 political prisoners were known to remain in government prisons (see section 1.e.).

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, courts were regularly subject to political influence.

The judicial system is composed of civil and criminal courts, military courts, the SSSC, and religious courts, which adjudicate matters of personal status such as divorce and inheritance (see section 5). The Court of Cassation is the highest court of appeal. The Supreme Constitutional Court rules on the constitutionality of laws and decrees and hears special appeals regarding the validity of parliamentary elections; however, it does not hear appeals from the civil and criminal justice system.

*Trial Procedures.*—Civil and criminal courts are organized under the Ministry of Justice. Defendants before these courts are entitled to legal representation of their choice; the courts appoint lawyers for indigents. Defendants are presumed innocent, and they are allowed to present evidence and to confront their accusers. Trials are

public, except for those involving juveniles or sex offenses. Defendants can appeal verdicts to a provincial appeals court and ultimately to the Court of Cassation. Appeals were often difficult to win because the lower courts do not provide verbatim transcripts of cases—only summaries prepared by the presiding judges. There are no juries. Defendants and their attorneys have access to government-held evidence relevant to their cases. However, human rights lawyers noted that the prosecution case file to which defense lawyers were provided access often did not include any evidence in some politically charged cases.

The law extends the above rights to all citizens in criminal cases. However, a number of sections of family and criminal law are based on Shari'a (Islamic law) and do not treat men and women equally. Furthermore, a number of personal status laws utilize Shari'a regardless of the religion of those involved in the case (see section 5).

Regular military courts have authority over crimes committed by soldiers or members of other military or police branches. Military courts also have authority to try civilians in cases based on military law. A military prosecutor decides the venue for a civilian defendant. There have been reports that the government operated military field courts in locations outside established courtrooms. Such courts reportedly observed fewer of the formal procedures of regular military courts.

On October 18, prominent human rights activist Haithem al-Maleh appeared before a military court to face charges of slander against government officials. Maleh was charged on three counts, including slandering the president, the army, and civil servants, based on a letter he wrote to President Bashar al-Asad. His case was pending at the end of the year.

On December 18, the Damascus Military Court charged lawyer and opposition figure Hassan Abdul Azeem with publication of material by an illegal organization. His case was scheduled proceed in 2006 (see section 1.d.).

The trial of approximately 200 Kurds accused of involvement in the March 2004 riots at the military court of Damascus ended with a pardon on March 30 (see section 1.d.).

The SSSC tries political and national security cases and operates under the provisions of the 1963 Emergency Law; the SSSC does not observe constitutional provisions safeguarding defendants' rights. Its verdicts are not subject to judicial appeal. The Minister of Interior may ratify, nullify, or alter SSSC rulings. The president must approve the verdict or may cancel it and ask for a retrial. Charges against defendants before the SSSC were usually vague. Defendants appeared to be tried for exercising basic political rights, such as free speech. For example, the Emergency Law authorizes the prosecution of anyone "opposing the goals of the revolution," and creating "sectarian strife." The government stated that the SSSC tries only persons who have sought to use violence against the state, but the majority of defendants who appeared before the SSSC were prosecuted for exercising their political rights.

Under SSSC procedures, defendants are not present during the preliminary or investigative phase of the trial, during which the prosecutor presents evidence. Trials usually were closed to the public. Lawyers were not ensured access to their clients before the trial and were excluded from the court during their client's initial interrogation by the prosecutor. Lawyers submitted written defense pleas rather than making oral presentations.

In contrast with 2004, there were no cases in which a lawyer representing defendants in a national security case had his license to practice suspended. However, the SSSC presiding judge continued his courtroom ban of one human rights lawyer (in effect since 2001) and banned a second lawyer in November.

Human rights organizations estimated that hundreds of cases are tried by the SSSC annually. The majority of cases involved charges relating to membership in various banned political groups, including religious parties such as the Muslim Brotherhood, the Islamic Liberation Party, as well as the Party of Communist Action, and Syrian Kurdish parties. Sentences up to 15 years have been imposed in the past.

The trial of the "Dumar 15," a group of 15 Kurdish men arrested in the aftermath of riots in the Dumar neighborhood of Damascus in March 2004, ended in February when the SSSC sentenced them to 2 to 3 years in jail for their involvement in the riots; however, they were released one month later as part of a presidential pardon.

On March 6, the SSSC sentenced two students, Mohammed al-Debs and Mohammed al-Arab, to three years in prison for their participation in an April 2004 protest. They were later granted amnesty as part of the March 30 presidential amnesty decree.

On June 19, the SSSC sentenced 17-year-old Musab al-Hariri to death because of his family's affiliation with the Muslim Brotherhood; the court then reduced the sentence to 6 years in prison. Hariri was detained while returning to the country

in 2002, at the age of 14, after living in Saudi Arabia for most of his life (see section 5).

On June 26, human rights activist Aktham Naissa, after a year of court deliberations, was acquitted by the SSSC for a "lack of evidence." He was arrested in March 2004 for participating in a protest in front of parliament and issuing a report criticizing the government's human rights record.

On September 25, the SSSC sentenced Ali Mahmoud Ali Muhammad, Hashim Ameen, and Shaheen Mohammad Hussein to five years in prison after they were convicted of a secret organization that seeks territorial independence for belonging to and annexation to another country.

On November 27, Kurdish activist Shevan Abdo was sentenced to two-and-one-half years on charges related to the 2004 Qamishli uprising (see section 5).

On December 4, the SSSC sentenced accused Muslim Brotherhood member Omar Darwish to death, commuted to 12 years in prison.

Human rights NGOs were not permitted to visit the SSSC; however, local lawyers affiliated with local human rights NGOs acted as defense counsel in some cases (see section 4).

*Political Prisoners.*—The precise number of political prisoners was not clear. Human rights groups estimated that there were approximately 325 political prisoners in Saidnaya prison, 150 in Adraa prison, and possibly up to several hundred to a thousand more political prisoners in other prisons, security service detention facilities, or other secret detention facilities throughout the country. Human rights activists were unable to provide any precise data on these additional prisoners. The government did not permit regular access to political prisoners by international humanitarian organizations. Human rights groups reported that many political prisoners serving long-term sentences remained in prison, despite the expiration of their sentences.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Emergency Law authorizes security services to enter homes and conduct searches without warrants if broadly defined security matters are involved. The security services selectively monitored telephone conversations and fax transmissions. The government opened mail addressed to both citizens and foreign residents. The government routinely monitored Internet communications, including e-mail, and blocked access to some Internet sites (see section 2.a.). In a November report, HRW noted that all three of the country's Internet service providers (ISPs) regularly blocked access to a variety of Web sites, noting that sites like *elaph.com*, *thisissyria.net*, *groups.msn.com*, and *arabtimes.com* had been blocked in the past. In February 2004, authorities shut down the proreform Web site *all4syria.org*.

The government detained relatives of detainees or of fugitives to obtain confessions or the fugitive's surrender (see section 1.d.).

The government forcibly resettled a number of individuals during the year. Local human rights organizations reported that on October 23, the governor of the predominantly Kurdish province of Hassakah ordered the relocation of Kurdish artist and activist Anwar Nasu from the city of A'muda to the village of Sufeya.

The government and the Ba'ath Party monitored and attempted to restrict some citizens' visits to foreign embassies and cultural centers. In December a foreign cultural center was forced to cancel a lecture after authorities denied permission for a presentation of a paper on Iraq policy written by a Syrian national.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and the press; however, the government significantly restricted these rights in practice, relying when necessary on Emergency Law provisions that suspend such rights and supersede constitutional practices. The government strictly controlled the dissemination of information and prohibited criticism of the government and discussion of sectarian issues including religious and ethnic minority rights. There were detentions and beatings for individual expressions of opinion that violated these restrictions, including, among others, the arrests of Habib Saleh, Mohammed Deeb, Nizar Rastanawi, and Riyadh Drar al-Hamood (see section 1.d.). In April and June, government officials warned civil society activist Ammar Abdulhamid to cease making public comments and writing editorials in the regional and Western press critical of the government. The government also threatened activists in an attempt to control behavior. Journalists and writers practiced self-censorship, particularly after the release of the first interim UNHCR report in October. In May a number of civil society activists created the first independent media watchdog group called Hurriyat, although it was not particularly active. The goal of the group was to liberalize the media and end government censorship of the press. In December 2004 the Ministry

of Information recommended the licensing of an independent association of journalists; however, at year's end, no license had been issued (see section 2.b.).

A number of quasi-independent periodicals, usually owned and operated by figures with good government connections, were published during the year, including the National Progressive Front's (NPF) Communist party newspaper *The People's Voice*; the NPF's Socialist Union party's private newspaper *The Unionist*; a private weekly newspaper, *Black and White*; and *The Economist (Al-Iktissad)*, which was sometimes critical of government performance. In June the Ministry of Information revoked the license of the satirical magazine *Al-Mubki* for critical comments about the government. A similar incident occurred with the financial magazine *Al-Mal* in May, when thousands of copies were confiscated for publishing an interview with businessman Firas Tlas, son of the long-serving former minister of defense Moustafa Tlas, which was critical of the government's economic policy.

The print and electronic media at times were critical of the Ba'ath Party and government performance and reported openly on a range of social and economic issues. In March 2004 a journalist for the government-owned daily *Al-Thawra* (Revolution) was fired over an article he wrote on pollution in the drinking water in Hassakah Province. The journalist was later reinstated after a campaign by *Al-Iktissad* magazine. Some Damascus-based correspondents for regional Arab media were able to file reports on internal political issues, such as rumored governmental changes, new political discussion groups, and the possible introduction of new parties, to the NPF.

The media covered some Israeli-Palestinian developments factually, but others were reported selectively to support official views. Unlike in the previous year, the government-controlled press decreased its coverage of official corruption and governmental inefficiency during the year. A few privately owned newspapers were published during the year, and foreign-owned, foreign-published newspapers continued to circulate relatively freely.

The government or the Ba'ath Party owned and operated radio and television companies and most of the newspaper publishing houses. The Ministry of Information closely monitored radio and television news programs to ensure adherence to government policies. The government did not interfere with broadcasts from abroad. Satellite dishes were widely used and available.

In April Al-Hurra Television cancelled a series of live interviews broadcast from Damascus after the first episode, citing government pressure to change its guest lineup.

Emergency Law and penal code articles dealing with crimes against state security allowed the government broad discretion to determine what constitutes illegal expression. The Emergency Law prohibits publication of "false information" that opposes "the goals of the revolution" (see section 1.e.), essentially ensuring that only a Ba'athist government view is permitted to circulate via the local media. Penal code articles prohibit acts or speech inciting confessionalism.

The 2001 Publications Law permits the reestablishment of publications that were circulated prior to 1963 and establishes a framework in which the NPF, as well as other approved private individuals and organizations, would be permitted to publish their own newspapers. However, the law also stipulates imprisonment and stiff financial penalties as part of broad, vague provisions prohibiting the publication of "inaccurate" information, particularly if it "causes public unrest, disturbs international relations, violates the dignity of the state or national unity, affects the morale of the armed forces, or inflicts harm on the national economy and the safety of the monetary system." Persons found guilty of publishing such information are subject to prison terms ranging from 1 to 3 years and fines ranging from \$10 thousand to \$20 thousand (500 thousand to 1 million Syrian pounds). The amendments to the publications law also impose strict punishments for reporters who do not reveal their government sources in response to government requests.

Security forces continued to arbitrarily arrest and detain a number of persons with views critical of the government (see section 1.d.).

During the year journalists were harassed by government forces. On March 15, the Ministry of Information announced that Ammar Mussareh, correspondent for the Arabic-language television station Al-Hurra, could no longer work in the country because of invalid accreditation. According to a local human rights organization, Mussareh had valid accreditation before it was withdrawn by the government due to his coverage of an opposition sit-in staged in Damascus on March 10 (see section 2.b.).

In March a municipal official and policemen threatened Assif Ibrahim, a journalist with the official daily newspaper of the Ba'ath Party and subsequently damaged the door of his home. This occurred after Ibrahim reported about corruption in a Damascus neighborhood where a building under construction allegedly violated safety standards.

According to a March 16 Reporters Without Borders report, Minister of Information Mahdi Dakhallah announced the withdrawal of permission to publish *Al-Ousboua Al-Iktissadi*, a business weekly; *Al-Riyadiya Wa Al-Chabab*, a new magazine for young sports fans; *Al-Saleb wa Al-Moujeb*; and one other newspaper before publishing their first issues. Only *Al-Saleb wa Al-Moujeb* was subsequently granted permission.

Unlike in previous years, the government did imprison journalists during the year for failing to observe press restrictions. In April the SSSC acquitted journalist Ibrahim Hamidi on charges of "publishing unfounded news" in violation of the publications law. Hamidi was arrested in late 2002 and was released on bail in May 2003.

On June 15, the Arabic Network for Human Rights in Syria, an independent NGO, reported the 2002 detention of journalist Anwar Saat Asfari. Asfari's whereabouts remained unknown at year's end.

The government prohibited all Kurdish language publications and arrested journalists who wrote in favor of greater Kurdish rights.

The trial of journalist and student Massud Hamid, arrested in 2003 for posting a picture of the June 2003 Kurdish United Nations Children's Fund (UNICEF) protest on a banned website, continued into 2004. The SSSC sentenced Hamid to 5 years in prison (minus time served) on October 10, 2004. Hamid remained incarcerated in Adraa prison at year's end.

The Ministry of Information and the Ministry of Culture and National Guidance (MCNG) censored domestic and imported foreign press. Publication or distribution of any material deemed by security officials as threatening or embarrassing to high levels of the government was prohibited. Censorship usually was stricter for materials in Arabic.

The MCNG also censored fiction and nonfiction works, including films. It also exercised the right of approval over films shown at cultural centers operated by foreign embassies. The government prohibited the publication of books and other materials in Kurdish; however, there were credible reports that Kurdish language materials were available in the country (see section 5).

Internet and e-mail access was limited but growing. The government blocked access to selected Internet sites that contained information deemed politically sensitive or pornographic in nature. The government banned access to foreign-based websites of unlicensed opposition parties and to news websites published in the country that were critical of the government (see section 1.f.). Several news Web sites not overtly critical of the government remained accessible.

The government restricted academic freedom. Public school teachers were not permitted to express ideas contrary to government policy; however, authorities permitted slightly more freedom of expression at the university level. The government changed its policy in 2002 to allow non-Ba'ath party members to study political science at the University of Damascus Political Sciences Institute, which had previously been part of the National Command and open only to Ba'ath Party members. Ba'ath Party members were also given preferential admissions treatment into the university.

#### *b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The constitution provides for the right of assembly; however, the right is superseded by Emergency Law provisions and the government did not respect this right in practice. Ministry of interior permission is needed for demonstrations. The government or the Ba'ath Party organized most public demonstrations.

The government required political forums and discussion groups to obtain prior approval to hold lectures and seminars and to submit lists of all attendees. Despite these restrictions several domestic human rights and civil society groups held meetings without registering with the government or obtaining prior approval. In many instances the government took steps to disrupt such gatherings or prevent them from occurring.

A limited number of demonstrations occurred during the year, most of which were permitted or organized by the government. In March a government-approved demonstration to show national unity in the wake of the Syrian withdrawal from Lebanon drew tens of thousands of pro-Ba'ath party supporters. There were also several smaller-scale demonstrations during the year by human rights activists, which were not government-supported. The government routinely disrupted such efforts, in some cases making arrests.

On March 10, a peaceful civil society protest in Damascus, calling for the end to the Emergency Law and marking the first anniversary of clashes between Kurds, Arab tribes, and security forces in the town of Qamishli, was broken up by



proregime demonstrators. Observers reported that the government encouraged the violence and apparently helped organize the counterdemonstration. The counterdemonstrators and security forces violently attacked the civil society activists and camera crews from several international news agencies, smashing or confiscating their cameras.

In May civil society leaders organized a protest near the SSSC calling for an investigation into the May 10 disappearance of Kurdish Sheikh Mashook al-Khaznawi and the release of all political prisoners. Police and security officials prevented participants in the protest from reaching the protest by blocking the streets around it. After Khaznawi was found murdered on June 1, various Kurdish political parties organized a protest asking for a full investigation into the case. Police responded harshly by arresting and detaining approximately 60 Kurds. They were released in August.

On May 30, authorities dispersed a peaceful sit-in in downtown Damascus of 100 civil society activists protesting the crackdown on civil society and the May 24 arrest of 8 Atassi Forum board members.

On June 21, police and security officials permitted human rights activists to hold a candle-light vigil near the SSSC calling for the release of all political prisoners, especially the "Damascus Spring" detainees.

In July a group of villagers in the province of ar-Raqqa protested against government seizure of their farmland. Authorities subsequently arrested 16 women protesters (see section 1.d.). Four of the women were released a number of days after arrest, while 12 others were held for approximately 1 month and then released.

On October 5, police broke up a protest of about 100 demonstrators who were commemorating the 1962 Syrian census, which effectively stripped 120 thousand Kurds of citizenship.

On October 24, protestors, comprised of mainly youth and students, rallied in a government-sponsored demonstration in front of the Central Bank in Damascus, protesting the conclusions contained in the UN report on the investigation into the February assassination of former Lebanese prime minister Rafiq al-Hariri. The Ba'ath Party provided the backing and organizational support for the demonstration, and protestors carried placards and banners with a range of political messages. A similar demonstration took place in Aleppo the same day.

On November 10, thousands gathered at Damascus University at a government-sponsored rally that coincided with President al-Asad's address to the nation.

On November 13, approximately 12 men were detained by police authorities following a spontaneous demonstration by family members of SSSC defendants, protesting the lack of visitation rights and criticizing the government. Police beat the men with sticks and detained them for several hours. On November 14, protester Mohamed Abdelhalim al-Halim al-Kelany was redetained by Air Force Intelligence; he was released in December (see section 1.d.).

In November and December, a number of government-related entities sponsored permanent protest venues in locations across Damascus. Protests and vigils held at al-Rawda Square and at the nearby al-Umawiyeen Circle repeatedly drew tens to hundreds of protesters.

On December 10, government authorities in Damascus broke up a protest by about 100 demonstrators commemorating Human Rights Day, using sticks to disperse the protesters.

In February 2004 security forces detained 10 students at the University of Aleppo for protesting Decree #6, which ended the government's policy of guaranteeing employment to all engineering graduates. Eight of the students were released the following month; however, dozens of students were expelled from university for their participation. The two remaining students, Mohammed al-Arab and Mohammed al-Debs, were detained for almost a year before the SSSC found them guilty in March of participating in the protest. They were released later in the month as part of a presidential pardon (see section 1.e.).

*Freedom of Association.*—The constitution permits private associations, but it also grants the government the right to limit their activities. In practice the government restricted freedom of association. Private associations are required to register with authorities, but requests for registration were usually denied, presumably on political grounds. The government usually granted registration to groups not engaged in political or other activities deemed sensitive.

Associative life was often restricted. For example, in June, July, August, and December, the government prevented the Atassi Forum from meeting because, according to media reports, the meetings would "damage national unity." A number of forum members were arrested in May and subsequently released for their involvement in the reading of a statement from the Muslim Brothers at a May 7 meeting.

In June authorities prevented a lecture by Dr. Mohammed Habash, a Syrian member of parliament (MP), at his Islamic Studies Center in Damascus.

In August authorities prevented a meeting of the Council for the Revival of Civil Society at the home of Dr. Hazem al-Nahar.

On August 5, a gathering of a new democratic party was broken up by government police and security officials in a rural Damascus town.

On October 16, authorities broke up a press conference held by drafters and signers of the Damascus Declaration, a civil society/opposition document that called for greater freedom and the rescinding of the Emergency Law. On November 11, government authorities prevented members of the Damascus Declaration group from meeting.

On December 10, government authorities prevented civil society gatherings at two different sites in Tartous.

In August 2004 the government denied registration to the AOHR and the Syrian Human Rights Organization (also known as SWASIAH, or "equal"). The CDF and HRAS were both denied registration in the past, and both organizations operated without government permission or support. All four organizations continued operation during the year.

The government did not permit the establishment of independent political parties (see section 3). Two new parties were established during the year but did not receive licenses from the government.

In December 2004 the Ministry of Information recommended the licensing of an independent association of journalists who report for regional Arab media, according to press reports. The five-year effort by journalists to form the association had long been blocked by the government (see section 2.a.). By year's end no license had yet been issued.

The executive boards of professional associations were not independent. Although members of the Ba'ath Party generally led the associations, nonparty members could serve on their executive boards.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice; however, it imposed some restrictions. There is no official state religion. Arab Sunni Muslims constituted 65 percent of the population; Sunni Kurds represented another 9 percent.

All religions and religious orders must register with the government, which monitored fundraising and required permits for all meetings by religious groups, except for worship. There was a strict separation of religious institutions and the state. Religious groups tended to avoid any involvement in internal political affairs, except for occasional regime-supported initiatives such as the October calls in many Syrian mosques for national unity and support for the government in the face of international pressures associated with the UNHCR investigation. The government, in turn, generally refrained from involvement in strictly religious issues. The government approves all textbooks that present religion as a way to foster national unity and tolerance.

The government considered militant Islam a threat and followed closely the practice of its adherents. The government allowed many new mosques to be built; however, sermons were monitored and controlled.

All schools are overseen by the government and nonsectarian; however, Christian and Druze minorities operated a number of schools, following state curriculum. There was mandatory religious instruction in schools, with government-approved teachers and curriculums. Religion courses were divided into separate classes for Muslim and Christian students. Although Arabic is the official language in public schools, the government permitted the teaching of Armenian, Hebrew, Syriac (Aramaic), and Chaldean as "liturgical languages."

Muslims and Christians are subject to their respective religious laws on marriage and divorce. However, all citizens are subject to Sharia'a-based child custody, adoption, inheritance, and guardianship laws (see section 5).

Although the law does not prohibit proselytizing, in practice the government discouraged such activity, deeming it a threat to relations among religious groups. Foreign missionaries were present but operated discreetly.

Government officials occasionally used radio and television programming, news articles, and other mass media to condone anti-Semitic material, and in some instances to support its export. On November 8, Syrian TV broadcast an interview with Deputy Minister of Religious Endowments Muhammad Abdul Sattar al-Sayyed in which he stated that Syria serves as "the last line of defense" against "Zionist plots which aim to put on the throne of the Middle East the descendants of . . . those whom the Koran called the descendants of apes and pigs."

The government-controlled press regularly published anti-Israel articles. On January 26, editorialist Ghassan Mahfouz wrote in *Tishrin* newspaper that Israel had

used “all sorts of biased propaganda based on the pretext of the holocaust event, which their gangs participated in. Those are the leaders of the Zionist movement, personified by the experienced criminal Mr. Ariel Sharon and other killers and racists who surround him.” Another *Tishrin* editorialist, Izz-al-Din al-Darwish, wrote in a July 31 editorial that “Syria is targeted by an intensive media campaign managed and financed by Zionist circles.” *Tishrin* also regularly used anti-Semitic caricatures to represent Israel in editorial cartoons.

*Societal Abuses and Discrimination.*—In January an updated edition of *The Protocols of the Elders of Zion*, a notorious anti-Semitic tract, was published by a Syrian publishing company, which credited the Ministry of Information with approving the text. The 2005 edition was expanded to include Islamic sources in support of anti-Semitic allegations. In 2003 a private Syrian film company also produced an anti-Semitic television series, *Ash-Shatat* (The Diaspora), which was filmed inside the country. The theme of the program centered on the alleged conspiracy of the “Elders of Zion” to orchestrate both world wars and manipulate world markets to create Israel. Although national television declined to air the program, it was shown on the Hizballah-affiliated Lebanese satellite television station Al-Manar. The closing credits of the programs gave “special thanks” to various Syrian government ministries, including the Interior Ministry, the Culture Ministry, the Damascus Police Command, and the Department of Antiquities and Museums.

The government continued to bar the approximately 80 Jewish citizens from government employment and exempted them from military service obligations. Jews also were the only religious minority group whose passports and identity cards noted their religion. Jewish citizens had to obtain permission from the security services before traveling abroad and faced extra government scrutiny when applying for licenses, deeds, or other official documents. The government enforced a law against exporting historical and cultural treasures to prohibit the Jewish community from sending historical Torahs abroad.

The government banned Jehovah’s Witnesses in 1964 as a “politically motivated Zionist organization”; however, members of Jehovah’s Witnesses have continued to practice their faith privately despite the ban.

The constitution prohibits sectarianism, although it specifies that the president must be a Muslim; however, in the case of Alawis, religious affiliation facilitated access to influential and sensitive posts.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for the right of free movement “within the territories of the state unless restricted by a judicial decision or by the implementation of laws”; however, the government limited freedom of movement in practice. Travel to Israel is illegal, and the government restricts travel near the Golan Heights. The law provides for the prosecution of any person attempting to seek refuge in another country or travel abroad illegally. The government also denied human rights activists, leaders of opposition groups, and other individuals’ permission to travel abroad.

Women over the age of 18 have the legal right to travel without the permission of male relatives; however, a husband or a father could file a request with the Ministry of Interior to prohibit his wife or daughter’s departure from the country (see section 5).

The government maintained security checkpoints, primarily in military and other restricted areas. There were few police checkpoints on main roads or in populated areas. The security services used checkpoints to conduct warrantless searches for smuggled goods, weapons, narcotics, and subversive literature.

The government has refused to recognize the citizenship of or grant identity documents to some persons of Kurdish descent. There are approximately 300 thousand stateless Kurds in Syria. Lack of citizenship or identity documents restricted their travel to and from the country (see section 5). Syrian émigrés who did not complete mandatory military service could pay a fee to avoid conscription while visiting the country. During the year a number of émigrés were imprisoned for refusing to pay the fee.

During the first three-quarters of the year, citizens of Arab League countries were able to enter the country without a visa for a stay of up to three months, a period that could be renewed. Residency permits required proof of employment and a fixed address in the country. While visa-free entry for Arabs continued at year’s end, the Interior Ministry issued a circular on October 27 informing immigration and security offices that nonpermanent resident males between the ages of 18 and 30 could be denied entry under a number of conditions, including travel alone, student or re-

cent graduate status, residence in a country other than their own, and suspicious travel abroad.

The constitution prohibits forced exile, and there were no reports of forced exile during the year.

*Protection of Refugees.*—The government is not a party to either the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol. It generally cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR) and the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in assisting refugees and asylum seekers and respected the UNHCR's eligibility determinations regarding asylum seekers. The government also participated in a UNHCR training seminar in international refugee law in March. However, UNHCR reported that a significant number of Iraqis were refused entry into the country during the year. It also reported that it had to intervene in several instances to prevent the deportation of persons issued UNHCR asylum seeker cards.

As of October 1, 429,399 Palestinian refugees were registered with UNRWA in the country. The General Authority of Palestinian Arab Refugees in Syria (GAPAR), the government agency established to coordinate assistance and protection to refugees, continued to provide assistance to Palestinian refugees during the year. Palestinian refugees with Syrian travel documents generally reported little difficulty traveling in and out of the country. In November the government admitted 19 Palestinian refugees fleeing Iraq to a refugee reception camp facility UNHCR established at El Hol in 2003 in anticipation of hostilities in Iraq.

Since 1991 thousands of Iraqis have applied for refugee status and have received legal and material assistance from the UNHCR in the country. In early 2003 the government agreed to admit persons displaced by the hostilities in Iraq. The government generally continued to honor UNHCR's request that states maintain some temporary protection for all Iraqi asylum seekers, including new arrivals, persons whose applications have been rejected, and recognized refugees whose cases had been suspended by resettlement countries during the year.

However, UNHCR reported that some Iraqis were deported during the year. There were estimates that between 60 thousand to a few hundred thousand Iraqis were living in the country. According to UNHCR figures, during the year 4,782 persons from Iraq, Somalia, Sudan, Yemen, Afghanistan, Algeria, Chad, Eritrea, Ethiopia, and Iran were recognized as refugees. An additional 3,778 cases of asylum seekers were pending. UNHCR received new applications for refugee status determination from 10,519 individuals during the year, primarily Iraqis. UNHCR did not facilitate any voluntary repatriations during the year. There were five voluntary repatriation cases in 2004.

According to International Organization for Migration (IOM) statistics, between January 1 and November 29, the government granted temporary protection to nine third-country nationals fleeing Iraq en route to Sudan and Morocco. IOM verified that these repatriations to third-countries were voluntary.

There were reports of refugees, particularly Iraqi girls and women, who were forced to work in the country as prostitutes because it was the only means to sustain a living for their families and themselves. No reliable statistics were available regarding the number of refugees working as prostitutes.

There are no direct provisions in Syrian laws which give refugees the right to work. Obtaining a work permit is a lengthy and complicated process; refugees were rarely granted a permit. In reality many refugees found daily labor in the informal sector mainly as guards, construction workers, street vendors, and in other manual labor jobs.

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

The constitution requires that the president be elected by referendum, and the parliament selects presidential candidates at the discretion of the regional Ba'ath party leadership. Although citizens vote for the president and MPs, in practice they did not have the right to change their government.

*Elections and Political Participation.*—In July 2000 an unopposed referendum confirmed Bashar al-Asad as president for a seven-year term. Citizens are required by law to vote; however, the percentage of women and minorities that voted was unknown.

The president appoints the vice presidents, the prime minister, deputy prime ministers, and the Council of Ministers and has the discretion to change these appointments at will. The president and his senior aides, particularly those in the military and security services, made most political and economic decisions, with a very limited degree of public accountability.

The president and the Ba'ath Party suppressed political opposition. The constitution provides that the Ba'ath Party is the ruling party and ensures it a majority in all government and popular associations, such as workers' and women's groups. The Ba'ath Party and nine other smaller political parties comprise the NPF, originally established in 1971. The NPF represented the only framework for legal political party participation for citizens; however, the Ba'ath Party dominated it, and the one-party character of the political system remained. Other political parties of the NPF were satellites and conformed strictly to Ba'ath party and government policies.

The Ba'ath Party dominated the 250-member parliament, or People's Council. Parliamentarians can criticize policies and modify draft laws; however, the executive branch retains ultimate control over the legislative process. In March 2003 elections for all 250 seats in the People's Council took place for 5-year terms. The election was neither free nor fair. The constitution guaranteed ensuring a permanent absolute majority for the Ba'ath Party, and most seats in parliament were reserved for members of the ruling NPF. The government allowed independent non-NPF candidates to run for 83 seats and required advance approval for candidacy.

In 2002 the government sentenced independent MPs Mamoun Homsy and Riad Seif to five-year prison terms for calling on the government to allow independent political parties to participate in government. The men were serving five-year sentences in the criminal section of Adraa prison, and under the criminal penal code should have been released, three-quarters through their sentence, on good behavior in June.

Women and minorities, with the exception of the Jewish population and stateless Kurds (see section 5), participated in the political system without restriction. There were 2 female cabinet ministers, and 30 of the 250 MPs were women.

The government did not provide figures on the ethnic or religious composition of parliament or the cabinet; however, there was one MP representing the Kurdish Progressive Democratic party and one MP representing the Democratic Assyrian Organization.

In June 2004 the government banned all political activities by the 12 Syrian Kurdish parties, although enforcement has in intensity.

*Government Corruption and Transparency.*—There were reports of corruption in the legislative and executive branches of the government. In October a presidential decree dismissed 81 judges from their positions in an effort to combat corruption and malfeasance in the judiciary. The dismissal was widely viewed in the country as a legal system sapped by an alarming level of corrupt practices. The government periodically dismissed isolated government officials for corruption, such as the January dismissal of Jamil Ajeeb, director general of the Directorate of Civil Aviation, which was reported in press accounts. It is rarer for the highest-level officials to be exposed to such charges. In nearly all such cases, corruption charges were being used by the regime as a political tool to attack its perceived enemies or rivals.

There are no laws providing for public access to government information.

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

The government did not allow domestic human rights groups to exist legally. In the past human rights groups operated legally but ultimately were banned by the government. During the year there were reports of government harassment of domestic human rights activists.

On October 18, prominent human rights activist Haithem al-Maleh appeared before the military court to face charges of slander against government officials (see section 1.e.).

On October 19, lawyer and human rights activist Anwar al-Bunni came out of hiding after the government dropped an arrest warrant for him on apparently trumped-up charges of physical assault. On October 20, three men on motorbikes attacked and beat al-Bunni in Damascus. AI reported that this assault may have been ordered or carried out by state officials.

On December 18, lawyer and opposition figure Hassan Abdul Azeem was charged by the Damascus Military Court with publishing material by an illegal organization. The charges were related to the publication and distribution of reform-oriented material by the opposition umbrella group of which he is the spokesman (see section 1.e.).

In 2004 the government denied registration to AOHR and SWASIAH. CDF and HRAS were both denied registration in the past but continued to operate illegally. All four organizations operated in a limited capacity during the year (see section 2.b.).

The government last met with international human rights organizations in 1997. As a matter of policy, the government has denied to international human rights

groups that it commits human rights abuses. The government has also stated that it responds in writing to all inquiries from NGOs regarding human rights issues, including the cases of individual detainees and prisoners, through an interagency governmental committee attached to the Ministry of Social Affairs and Labor. However, NGOs have reported that they usually heard nothing from the ministry. The government normally responded to queries from human rights organizations and foreign embassies regarding specific cases by claiming that the case was still under investigation and the prisoner could therefore not be released, or that the prisoner in question violated national security laws.

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

The constitution provides for equal rights and equal opportunity for all citizens, and discrimination based on race, sex, disability, language, or social status is prohibited; however, membership in the Ba'ath Party or close familial relations with a prominent party member or powerful government official helped economic, social, or educational advancement. Party or government connections paved the way for entrance into better elementary and secondary schools, access to lucrative employment, and greater power within the government, the military, and the security services. Certain prominent positions, such as that of provincial governor, were reserved solely for Ba'ath party members. There was governmental and societal discrimination against stateless Kurds and Jews (see section 2.c.).

*Women.*—Violence against women occurred, but there were no reliable statistics regarding the prevalence of domestic violence or sexual assault. The vast majority of cases were likely unreported, and victims generally were reluctant to seek assistance outside the family. In some cases observers reported that the abused women tried to file a police report, but the police did not respond aggressively, if at all, to their claims. Women reported incidents at police stations of sexual harassment, verbal abuse, hair pulling, and slapping by police officers when attempting to file police reports, particularly at the Criminal Security branch at Bab Musallah in Damascus. Battered women have the legal right to seek redress in court, but few did so because of the social stigma attached to such action. The Syrian Women's Federation offered counseling services to battered wives to remedy individual family problems. The Syrian Family Planning Association also provided counseling in an effort to address the problem. Some private groups, including the Family Planning Association, organized seminars on violence against women. There were a few private, unofficial, specifically designated shelters or safe havens for battered women who fled or tried to flee from their husbands. In December 2004 representatives of all government agencies were required to attend a gender issues training seminar with representatives of domestic women's NGOs.

The Syrian Agency for Family Affairs reports directly to the prime minister and reviews the legal and social status of women and children, and coordinates with NGOs that provide services to women and children.

Rape is a felony; however, there are no laws against spousal rape. According to the law, "the punishment for a man who rapes a woman (other than his wife) is at least 15 years in prison." However, if the individual who commits the crime agrees to marry the victim, he faces no punishment. The victim's family sometimes agrees to this arrangement to avoid the social scandal and stigma attached to rape. If the victim is too young for marriage, the rapist receives a longer prison sentence. No statistics were kept on spousal rape because it is not a crime under the law.

The law specifically provides for reduced sentences in "honor" crimes, which are violent assaults by a male against a female, usually a family member, with intent to kill for alleged sexual misconduct. No official statistics were kept on honor crimes. There was one example of a woman who was forced to move from her rural village to a major city because her family assaulted her and threatened to kill her and her Christian boyfriend for having sex outside of marriage. In August a man stabbed and shot to death his 23-year-old sister Huda Abu Assaly, who he believed betrayed the family's honor by secretly marrying a Christian man she had met while studying at Damascus University. There were no reports of the authorities arresting and charging the brother for the killing. In September a woman from Afrih suspected by her family of engaging in premarital sex was killed by her brother and father. No charges were filed against them.

The law prohibits prostitution, and it was not a widespread problem among female citizens. There was growing evidence that it was a problem among Iraqi women residing in the country, especially minors (see section 5, Trafficking).

The law prohibits sexual harassment and specifies different punishments depending on whether the victim is a minor or an adult. Sexual harassment was rarely reported.

The constitution provides for equality between men and women and equal pay for equal work. Moreover, the government sought to overcome traditional discriminatory attitudes toward women and encouraged women's education by ensuring equal access to educational institutions, including universities. However, the government has not changed personal status, retirement, or social security laws that discriminate against women. In addition, some secular laws discriminate against women. For example, under criminal law, if a man and woman separately commit the same criminal act of adultery, the woman's punishment is double that of the man's.

Christians, Muslims, and other religious groups are subject to their respective religious laws on personal status issues of marriage and divorce. For Muslims, personal status law is based on the government's interpretation and application of Shari'a. This application of laws discriminated against Muslim women.

Husbands and wives can claim adultery as grounds for divorce; however, criminal law discriminates against women in this regard. A man can only be accused of adultery if his actions occur in the home which he shares with his wife; a woman can be accused of adultery regardless of venue. Also, the court accepts any evidence a man presents when claiming adultery; if a woman attempts to file for divorce based on adultery, her husband must admit to the crime or there must be a third witness to the act. There were no reported cases where a woman successfully filed for divorce based on adultery.

A divorced woman might not be entitled to alimony in some cases, particularly if she gave up her right to it in order to persuade her husband to agree to the divorce.

Regardless of divorce or other circumstances, the law provides that a child is entitled to financial support of a minimum of \$20 (1 thousand Syrian pounds) per year.

In addition, under the Personal Status Law modified in October 2003, a divorced mother loses the right to physical custody of her sons when they reach the age of 13 and of her daughters at age 15. Guardianship, or control over exercise of the legal rights of the children, always remains with the paternal side of the family.

Inheritance for Muslims also is based on the government's interpretation of Shari'a. Accordingly, Muslim women usually were granted half of the inheritance share of male heirs. However, male heirs must provide financial support to the female relatives who inherit less. If they do not, females have the right to sue.

Polygyny is legal but was practiced only by a small number of Muslim men.

A husband may request that his wife's travel abroad be prohibited. While official statistics are not available, foreign embassies reported a number of such incidents during the year (see section 2.d.).

Women participated actively in public life and were represented in most professions, including the armed forces. Women were not impeded from owning or managing land or other real property. Women constituted approximately 13 percent of judges, 15 percent of lawyers, 57 percent of teachers below university level, and 20 percent of university professors.

*Children.*—The law emphasizes the need to protect children, and the government organized seminars on child welfare. During the year some of these seminars were organized in cooperation with the local UNICEF office.

The government provided free, public education to citizen children from primary school through university. Education is compulsory for all children, male and female, between the ages of 6 and 12. According to a 2005 joint study by the UNDP and the Syrian State Planning Commission, 49.6 percent of students through the secondary level were female. Nevertheless, societal pressure for early marriage and childbearing interfered with girls' educational progress, particularly in rural areas where the dropout rates for female students remained high.

Palestinians and other noncitizens can send their children to school. Stateless Kurds can also send their children to school but because they do not have any identification, their children cannot attend state universities.

The legal age for marriage is 18 for males and 17 for females. However, a male 15 or older and a female 13 or older may be married if both are deemed by a judge to be willing parties to the marriage and "physically mature" to have children. In the event of a marriage under the legal age limit, there must be consent by the father or grandfather to the marriage. While underage marriage has declined considerably in the past decades, it was still common in the country. It occurred in all communities, but tended to be more prevalent in rural and lesser-developed regions. There were no statistics available on the rates of marriage in the country according to age.

The government provides free medical care for citizen children until the age of 18. There was no legal discrimination between boys and girls in education or in health care.

The law provides for severe penalties for those found guilty of the most serious abuses against children. Although there were cases of child abuse, there was no societal pattern of abuse against children.

Child prostitution and trafficking in children were rare; incidents that arose mainly involved destitute orphans.

In June human rights contacts reported that 60 Kurds were detained following a protest in the northeastern town of Qamishli; some of those arrested were under the age of 18. Human rights organizations also reported multiple cases where security services detained minors and placed them in adult prisons, including the three-year detainment of Musab al-Hariri in an adult detention facility and the detention of Kurdish minors in adult detention centers and prisons following the June protests against the death of Kurdish Sheikh Mashook al-Khaznawi (see section 1.c.).

*Trafficking in Persons.*—Syria is a destination country for women trafficked from South and East Asia and Ethiopia for the purpose of labor exploitation and from Eastern Europe for sexual exploitation. There were no statistics available on the scope and type of trafficking that exists. There were reports by NGOs and the press that indicate Iraqi women may be subjected to sexual exploitation in prostitution by Iraqi criminal networks in the country, but those reports were not confirmed. A 2003 IOM study indicated that some individuals brought into the country to work as domestic workers suffered conditions that constituted involuntary servitude, including physical and sexual abuse, threats of expulsion, denial or delayed payment of wages, withholding of passports, and restriction of movement. The IOM study documented cases in which manpower agencies in the country that hired foreign domestic workers lured some victims through fraudulent or deceptive offers of employment, despite the fact that such manpower agencies are banned.

The government does not fully comply with the minimum standards to eliminate trafficking and does not have a legal framework governing relations between domestic workers and their employers. It also does not regulate illegal manpower agencies that bring in and, in some cases, facilitate victims' exploitation. The governments of Sri Lanka and the Philippines banned their citizens from taking employment as domestic workers in the country due to a ban on private manpower agencies dealing with foreign domestic workers, who are not covered under most of the country's domestic labor laws. The government does not have a national antitrafficking coordinator, or comprehensive antitrafficking legislation to investigate and prosecute traffickers and manpower agencies that facilitate trafficking.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities and seeks to integrate them into the public sector work force; however, implementation remained inconsistent. In December 2004 the government implemented regulations reserving 4 percent of government and public sector jobs for persons with disabilities (see section 6.e.). There are no laws that mandate access to public buildings for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The government generally permitted national and ethnic minorities to conduct traditional, religious, and cultural activities; however, the government's attitude toward the Kurdish minority remained a significant exception.

On March 21, police and security services prevented Kurds living in Aleppo from celebrating their New Year and arrested 40 Kurds the following day for celebrating.

On May 10, Kurdish Sheikh Mashook al-Khaznawi was kidnapped and found murdered several weeks later. Several days after his funeral, a Kurdish protest was organized calling for a full investigation into the circumstances surrounding his murder. Government police, military, and security forces broke up the protest, arresting approximately 60 Kurds, including women and minors. On August 4, they were released but still faced charges (see section 1.d.).

In March 2004 security forces in Qamishli, in the northeastern Hassakah Province, opened fire on a crowd at a soccer match after clashes between Arab and Kurdish fans. The following day crowds rioted in Qamishli, and the security forces again fired on the crowd. Subsequently, riots and demonstrations spread throughout the towns and villages of Hassakah as well as to cities such as Damascus and Aleppo. Thirty-eight persons were killed during the riots, and security forces detained more than 1 thousand persons (see sections 1.a., 1.c., and 1.d.).

Following the 1962 census, approximately 120 thousand Syrian Kurds lost their citizenship, which the government has never restored. As a result, those who lost their nationality, and their children, remained severely disadvantaged in participating in civil life and in receiving government services, including health and education, as well as employment open to citizens. These stateless Kurds, according to Refugees International estimates, numbered approximately 300 thousand. During a June meeting of the Ba'ath party congress, government officials said a solution to



the Kurdish problem was imminent. President Bashar al-Asad also announced in his November 10 address to the nation that the issue would be resolved soon. However, there was no progress on the government's commitments by year's end.

Although the government contended that there was no discrimination against the Kurdish population, it placed limits on the use and teaching of the Kurdish language. It also restricted the publication of books and other materials written in Kurdish (see section 2.a.), Kurdish cultural expression, and, at times, the celebration of Kurdish festivals. The government tacitly accepted the importation and distribution of Kurdish language materials, particularly in the northeast region where most of the Kurds resided.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—While the constitution provides for the right of association and to form unions, in practice, workers were not free to establish unions independent of the government. All unions belonged to the General Federation of Trade Unions (GFTU), which was dominated by Ba'ath Party members and was a part of the government's bureaucratic structure. The GFTU advised the government on legislation, organized workers, and formulated rules for various member unions, controlling nearly all aspects of union activity. The GFTU president was a senior member of the Ba'ath Party, and he and his deputy could attend cabinet meetings on economic affairs.

There were no reports of antiunion discrimination. Since the unions were part of the government's bureaucratic structure, the law protects union members from antiunion discrimination. The GFTU was affiliated with the Damascus-based International Confederation of Arab Trade Unions.

All practicing lawyers in the court belonged to the Syrian Bar Association, whose leadership was dominated by Ba'ath party members.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to bargain collectively; however, this right does not exist in practice as the unions are effectively led by Ba'ath Party officials closely tied to the government. Government representatives were part of the bargaining process in the public sector. Public sector unions did not normally bargain collectively on wage issues, but union representatives participated with representatives of employers from the government-affiliated Chambers of Industry and Commerce and the supervising ministry in establishing minimum wages, hours, and conditions of employment in the private sector. Workers served on the boards of directors of public enterprises, and union representatives were included on the boards.

The law provides for collective bargaining in the private sector, although past repression by the government dissuaded most workers from exercising this right.

Unions have the right to litigate disputes over work contracts and other workers' interests with employers and are able to ask for binding arbitration. In practice labor and management representatives settled most disputes without resort to legal remedies or arbitration. Management has the right to request arbitration, but that right seldom was exercised. Arbitration authority is vested in the ministry of justice administrative petition court. In practice this court did little more than certify agreements and almost no role in arbitrating disputes; as such disputes did not occur with any regularity.

The law does not prohibit strikes; however, previous government crackdowns deterred workers from striking. There were no strikes during the year.

There were no unions in the seven free trade zones (FTZs). Firms in the zones were exempt from the laws and regulations governing hiring and firing, although they were required to observe some provisions on health, safety, hours, and sick and annual leave. Ninety percent of the workers in the FTZs were citizens of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit forced or compulsory labor, and there were no known reports of such practices involving foreign workers or domestic servants. However, the problem existed. Forced labor was imposed as a punishment for convicted prisoners. The governments of Sri Lanka and the Philippines banned their citizens from taking employment as domestic workers in the country because of abuses and the lack of a mechanism to protect the rights of their citizens.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor law provides for the protection of children from exploitation in the workplace; however, the government tolerated child labor. The private sector minimum age for employment is 15 years for most types of nonagricultural labor and 18 years for heavy work. Working hours for youths of legal age were set at six hours per day. Youths were not allowed to work during night shifts, weekends, or on official holidays. In

all cases, parental permission was required for children under the age of 16 to work. While the law prohibits children from working at night, this law applies only to children who work for a salary. Those who work in family businesses and who are technically not paid a salary—a common occurrence—do not fall under the law. Children under 15 are prohibited by law from working in mines, at petroleum sites, or in other dangerous areas. Children are not allowed to lift, carry, or drag heavy objects.

Independent information and audits regarding government enforcement were not available. The majority of children under age 16 who worked did so for their parents in the agricultural sector without remuneration. According to UNICEF, 8 percent of children under the age of 14 participated in the labor force between 1999 and 2003.

The Ministry of Labor and Social Affairs monitored employment conditions for persons under the age of 18; however, it did not have enough inspectors to ensure compliance with the laws. The Labor Inspection Department performed unannounced spot checks of employers on a daily basis to enforce the law; however, the scope of these checks was unknown.

*e. Acceptable Conditions of Work.*—The minister of labor and social affairs was responsible for enforcing minimum wage levels in the public and private sectors. Public sector minimum wages were about \$62 (3,200 Syrian pounds) per month, plus benefits, including compensation for meals, uniforms, and transportation. Private sector minimum wages were \$65 (3,500 Syrian pounds) per month; however, private sector companies usually paid much higher wages than the minimum. These minimum wages did not provide a decent standard of living for a worker and family. As a result, many workers in both the public and private sectors took additional jobs or were supported by their extended families. The public sector work week was 35 hours; the private sector's was 42.5 hours. Premium pay exists for overtime worked, and a prohibition on excessive compulsory overtime exists in several sectors.

Rules and regulations severely limited the ability of an employer to dismiss a contracted employee without cause.

In December 2004 President Asad signed an amended "Basic Labor Law," which stipulates that public sector entities must reserve 4 percent of government and public sector jobs for persons with disabilities (see section 5). In addition, the law grants employees judicial recourse to appeal dismissals. A committee formed by the minister of justice, the minister of labor, and the chief of the Central Commission for Inspection and Control may make a decision to dismiss an employee, stating the reasons behind the decision. This decision must be approved by the prime minister.

The law does not protect temporary workers and workers without contracts. Neither group is subject to regulations on minimum wages. Small private firms and businesses employed such workers to avoid the costs associated with hiring permanent employees. The law mandates safety in all sectors, and managers are expected to implement them fully. In practice there was little enforcement without worker complaints, which occurred infrequently despite government efforts to post notices regarding safety rights and regulations. Large companies, such as oil field contractors, employed safety engineers.

Officials from the Ministries of Health and Labor were designated to inspect work sites for compliance with health and safety standards; however, such inspections were sporadic, apart from those conducted in hotels and other facilities that catered to foreigners. The enforcement of labor laws in rural areas was more lax than in urban areas, where there were a larger number of inspectors. Workers may lodge complaints about health and safety conditions with special committees established to adjudicate such cases. Workers have the right to remove themselves from hazardous conditions without risking loss of employment.

The law provides protection for foreign workers who reside legally in the country but not for illegal workers. There were no credible estimates available on the number of illegal workers in the country.

## TUNISIA

Tunisia is a constitutional republic with a population of approximately 10 million, dominated by a single political party, the Democratic Constitutional Rally (RCD). Zine El-Abidine Ben Ali has been the president since 1987. In the October 2004 presidential and legislative elections, President Ben Ali ran against three opposition candidates and won approximately 94 percent of the popular vote, with official turnout quoted as higher than 90 percent of registered voters, although there were indications that voter turnout figures were artificially inflated. A second legislative body, the Chamber of Advisors, was created in a 2002 referendum amending the

constitution. Elections for the Chamber of Advisors were held in July; members were either appointed by the president or elected by parliamentary deputies and other government officials. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and the government persisted in committing serious abuses. However, the government continued to demonstrate respect for the religious freedom of minorities, as well as the human rights of women and children. The following human rights problems were reported:

- torture and abuse of prisoners and detainees
- arbitrary arrest and detention
- police impunity
- lengthy pretrial and incommunicado detention
- infringement of citizens' privacy rights
- restrictions on freedom of speech and press
- restrictions of freedom of assembly and association

The government signed an agreement to allow the International Committee of the Red Cross (ICRC) to visit all prison and detention facilities in the country. In addition, the government eliminated longterm solitary confinement. In a significant development, the government declared an end to "*depot legal*", or prior review, for newspapers, although other press restrictions continued, including prior review on books.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, on June 17, Moncef Ben Ahmed Ouahichi, a Jendouba resident, died of a cerebral hemorrhage at La Rabta Hospital in Tunis. This followed his arrest June 10 and his release the next day, at which time he was unconscious and bearing bruises, according to the Jendouba regional chapter of the Tunisian Human Rights League (LTDH). Following his death, Ouahichi's defense lawyer filed a case before the public prosecutor calling for an investigation into Ouahichi's death and indicated that authorities prevented him from visiting his client when he was initially in the Jendouba Hospital. The Association for the Struggle Against Torture in Tunisia (ALTT) stated that security agents in Jendouba claimed that Ouahichi, a commercial driver, had "transported terrorists" and that the security agents told Ouahichi's brother not to hospitalize him nor speak publicly of the incident.

In 2004 the LTDH reported that Badreddine Rekeii died in police custody in 2003. Police reportedly told Rekeii's family that he committed suicide, although Rekeii's family did not believe the police report because the body showed signs of abuse. According to Amnesty International (AI), the family called for a further investigation, as the original investigation failed to establish the cause of extensive bruising on his body and a deep wound on his back. There was no further information on whether an investigation was carried out.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, security forces reportedly tortured detainees to elicit confessions and discourage resistance. The forms of torture and other abuse included: electric shock; submersion of the head in water; beatings with hands, sticks, and police batons; suspension, sometimes manacled, from cell doors and rods resulting in loss of consciousness; and cigarette burns. According to AI, police and prison officials used sexual assault and threats of sexual assault against the wives of Islamist prisoners to extract information, to intimidate, and to punish.

Charges of torture in specific cases were difficult to prove because authorities often denied the victims of torture access to medical care until evidence of abuse disappeared. The government maintained that it investigated all complaints of torture and mistreatment filed with the prosecutor's office, and noted that alleged victims sometimes accused police of torture without filing a complaint, which is a prerequisite for an investigation.

According to defense attorneys, local human rights groups, and AI, police routinely refused to register complaints of torture. In addition, judges dismissed complaints without investigation and accepted as evidence confessions extracted through torture. The government may open an administrative investigation of allegations of torture or mistreatment of prisoners without a formal complaint; however,

it was unlikely in those cases to make the results public or available to the lawyers of affected prisoners.

Consistent with an effort to extract information or coerce confessions, more reports of torture came from pretrial detention centers than prisons. Human rights activists, citing prisoner accounts, identified facilities at the Ministry of Interior as the most common location for torture. Political prisoners and Islamists allegedly received harsher treatment than criminals.

Several domestic nongovernmental organizations (NGOs), including the National Council for Freedoms in Tunisia (CNLT) and the Association for the Fight Against Torture in Tunisia (ALTT), reported on multiple torture cases throughout the year. For example, on June 25, according to CNLT, 25-year-old Zied Ghodhbane appeared in court in a state of physical and psychological distress, bearing marks of abuse on his body. He reportedly testified that officials at the Ministry of Interior tortured him by beatings, electrocution, and holding his head under water in detention facilities at the interior ministry after his extradition from Algeria to the country. Defense lawyers for the accused requested that the judge recommend a medical examination, but the judge reportedly ruled that such a request should come from the general prosecutor.

In April authorities sentenced the “Bizerte Group,” 11 defendants arrested in 2004 and charged with various terrorism-related crimes, to prison terms ranging from 10 to 30 years. On July 2, the court acquitted five of the defendants, while the remaining six received sentence reductions. The Committee of the Defense of Victims of the Law on Terrorism released multiple communiqués charging that authorities gathered confessions from the group using torture (see section 1.e.).

There were no further developments on reports that three individuals, alleged members of the security forces, assaulted journalist Sihem Ben Sedrine in January 2004 (see section 2.a.), or on reports in October 2004 of an assault on former political prisoner Hama Hammami, whose political party urged the boycott of the October 2004 presidential elections.

In June 2004, according to the International Association for the Support of Political Prisoners (AISPP), the senior official of Borj Erroumi Prison beat and placed in solitary confinement Nabil El Ouaer, whom a military tribunal had sentenced to 15 years of prison in 1992. While in solitary confinement, four other prisoners allegedly raped him. Based on its timing and location, human rights activists believed prison officials sanctioned the incident. El Ouaer conducted a hunger strike and filed a complaint through a lawyer, despite reported pressure from prison officials to withdraw the complaint. When the case received international attention, President Ben Ali ordered the Higher Commission on Human Rights and Basic Freedoms (a state-appointed body) to conduct an inquiry into the case, but the authorities did not publicize the results. According to AI, authorities transferred El Ouaer to three different prisons, admitted him to Rabta Hospital in Tunis, and subsequently released him conditionally in November 2004. El Ouaer reportedly suffered psychological distress as a result of the assault. Despite several requests by his lawyer for an independent criminal inquiry into the assault, no investigation was carried out.

Authorities did not charge any police or security force official with abuse during the year.

*Prison and Detention Center Conditions.*—Prison conditions ranged from spartan to poor, and generally did not meet international standards. Foreign diplomatic observers who visited prisons described the conditions as “horrible.” Overcrowding and limited medical care posed a significant threat to prisoners’ health. Sources reported that 40 to 50 prisoners were typically confined to a single 194 square foot cell, and up to 140 prisoners shared a 323 square foot cell. Current and former prisoners reported that inmates were forced to share a single water and toilet facility with more than 100 cellmates, creating serious sanitation problems.

In March AI reported that most prisoners shared beds or slept on the floor. Contagious diseases, particularly scabies, were widespread, and prisoners did not have access to adequate medical care. Additional discriminatory and arbitrary measures worsened the conditions of detention, particularly when prisoners sought redress for grievances about treatment and conditions.

In 2004 the LTDH released a 63-page report on the country’s prisons entitled “The Walls of Silence,” which stated that there were approximately 26 thousand prisoners in 29 prisons and 7 juvenile detention centers. The report described a number of abuses, alleging that torture and humiliating treatment of prisoners were widespread.

On April 20, Human Rights Watch (HRW) held a press conference in Tunis to release a report describing the government practice of holding political prisoners in prolonged solitary confinement. During the conference, HRW announced that the government promised not to place prisoners in solitary confinement for more than

10 days, the maximum time allowed for punishment according to the law. Shortly thereafter, the government confirmed that it had eliminated longterm solitary confinement. However, HRW reported that the government continued to keep some political prisoners, most of whom were An-Nahdha leaders, in small-group isolation.

Prison conditions for women were generally better than those for men. Conditions for detainees and convicts were the same.

International and local NGOs reported that political prisoners regularly were moved among jails throughout the country, thereby making it more difficult for their families to deliver food to them and to discourage their supporters or the press from inquiring about them (see section 1.b.). The National Council for Liberties in Tunisia (CNLT) reported that other inmates were instructed to stay away from political prisoners and were punished severely for making contact with them.

In April the government reportedly approved access for HRW to make prison visits. Following this verbal agreement, however, HRW submitted a formal request for prison access, but by year's end had received no response. In June the ICRC began conducting prison and detention center visits, following more than a year of negotiations with the government. In December the ICRC reported that prison authorities had respected their mission and had allowed them to conduct visits without obstacle. The government did not permit media to inspect or monitor prison conditions.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but, in practice, arbitrary arrest and detention occurred.

*Role of the Police and Security Apparatus.*—The Interior Ministry controls several law enforcement organizations including: the police, who have primary responsibility within the major cities; the National Guard, which has responsibility in smaller cities and the countryside; and state security forces, which monitor groups and individuals the government considers to be a dangerous threat, such as opposition parties and leaders, the media, Islamists, and human rights activists.

In general, law enforcement groups were disciplined, organized, and effective; however, there were episodes involving petty corruption and police brutality. Law enforcement organizations operated with impunity, and the police committed attacks, sanctioned by high officials, on dissidents and oppositionists.

In March 2004 the Minister of Interior announced the creation of the Higher Institute of Internal Security Forces and Customs, a new oversight body for law enforcement officers in the ministries of interior and customs. The organization's stated mission was to reinforce human rights and improve law enforcement; however, no information was available about its subsequent operations, and no information was available about punishment of police and prison guards for committing infringements against detainees since 2002.

*Arrest and Detention.*—The law provides that the police must have a warrant to arrest a suspect, unless the crime committed is a felony or is in progress; however, arbitrary arrests and detentions occurred. The penal code permits the detention of suspects for up to six days prior to arraignment, during which time the government may hold suspects incommunicado. Arresting officers are required to inform detainees of their rights, immediately inform detainees' families of the arrest, and make a complete record of the times and dates of such notifications, but those rules were sometimes ignored. Detainees were allowed access to family members when they were not being held incommunicado, although the government did not always facilitate the efforts of family members to identify the whereabouts of their detained relatives.

Detainees have the right to know the grounds of their arrest before questioning, and may request a medical examination. They do not have a right to legal representation during the pre-arraignment detention. Attorneys, human rights monitors, and former detainees maintained that the authorities illegally extended detainment by falsifying arrest dates. Police reportedly extorted money from families of innocent detainees in exchange for dropping charges against them.

The law permits the release of accused persons on bail, and detainees have the right to be represented by counsel during arraignment. The government provides legal representation for indigents. At arraignment, the examining magistrate may decide to release the accused or remand him to pretrial detention.

The government denied detaining anyone for political crimes. The lack of public information on prisoners and detainees made it impossible to estimate the number of political detainees. However, it was likely that the number of those held without charge was low because criminal convictions of dissidents and Islamists were easy to secure under laws prohibiting membership in outlawed organizations and "spreading false information aimed at disturbing of the public order."

In cases involving crimes for which the sentence may exceed five years or that involve national security, pretrial detention may last an initial period of six months

and may be extended by court order for two additional four-month periods. For crimes in which the sentence may not exceed five years, the court may extend the initial six-month pretrial detention by an additional three months only. During this pretrial stage, the court conducts an investigation, hears arguments, and accepts evidence and motions from both parties. Complaints of prolonged pretrial detention were common.

*Amnesty.*—Judges and the government exercised their authority to release prisoners or suspend their sentences, often on conditional parole (see section 1.e.). On March 20, President Ben Ali pardoned an unannounced number of prisoners in commemoration of Independence Day. On March 23, the unregistered Tunisian Islamist An-Nahdha party announced that six of the movement's "former" members were among those released. According to the An-Nahdha statement, all were arrested in the southern town of Gabes in early 1992 and were sentenced to 16 years imprisonment. On July 24, on the occasion of Republic Day, the government again granted amnesty to an unannounced number of prisoners, who were not identified.

On November 4, President Ben Ali pardoned an unknown number of unidentified prisoners. The website of An-Nahdha later claimed that 40 political prisoners were among those released. AISPP listed many of those, convicted in the 1990s for ties to An-Nahdha, as political prisoners, a number of whom had nearly completed 15-year sentences.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the executive branch and the president strongly influenced judicial procedures, particularly in political cases. The executive branch exercised an indirect authority over the judiciary through the appointment, assignment, tenure, and transfer of judges, rendering the system susceptible to pressure. In addition, the president was head of the Supreme Council of Judges, composed primarily of presidential appointees.

The law provides citizens legal recourse to an administrative tribunal to address grievances against government ministries, although government officials rarely respected the tribunal's nonbinding decisions. Throughout the year the government permitted observers from diplomatic missions, members of the European Parliament, and foreign journalists to monitor trials. The government did not permit observers to attend sessions of military tribunals.

In June, as it had in the previous year, the Association of Tunisian Judges (AMT), a 1,700-member professional organization, released a communiqué calling for reform of the recruitment, transfer, and promotion system for judges and proposing more elections of judges to the Supreme Council of Judges, the governing body for the judiciary (see section 2.b.). The government did not officially respond to the association's communiqué, but human rights organizations stated that the government tried to remove AMT leadership due to its demonstrated independence.

The civil court system is a four-tiered hierarchy. At the first level, there are 51 district courts, in which a single judge hears each case. At the second level are 24 courts of first instance, which serve as the appellate courts for the district courts, but they also have original jurisdiction for more serious cases. There is a three-judge court of first instance in each region, empowered to consider all commercial and civil cases. At the third level are three appeals courts. The Court of Cassation or Supreme Court serves as the final court of appeals. The Supreme Court only considers arguments pertaining to points of law. The organization of the criminal court system is similar to that of the civil court system. In most cases, the presiding judge or panel of judges dominates a trial, and attorneys have little opportunity to participate substantively.

Military courts fall under the ministry of defense and an administrative tribunal.

*Trial Procedures.*—Trials in the regular courts of first instance and in the courts of appeal are open to the public. By law the accused has the right to be present at trial, to be represented by counsel, and to question witnesses; however, judges do not always observe these rights in practice. The law permits the trial in absentia of fugitives from the law. Both the accused and the prosecutor may appeal decisions of the lower courts.

The law provides that defendants are presumed innocent until proven guilty "following a procedure offering essential defense guarantees." However, that presumption was sometimes ignored in practice, especially in politically sensitive cases. Defendants may request a different judge if they believe the assigned one is not impartial; however, judges are not required to recuse themselves. There were no reports that judges offered the alternative of community service in political cases.

Although family and inheritance law is codified, civil law judges were known to apply Shari'a (Islamic law) in family cases if the two systems conflicted. For example, codified laws provided women with the legal right to custody over minor chil-

dren; however, judges sometimes refused to grant women permission to leave the country with them, holding that Shari'a appoints the father as the head of the family and the one who must grant children permission to travel. Some families avoided the application of Shari'a inheritance rules by executing sales contracts between parents and children to ensure that daughters received shares of property equal to that of sons.

Lengthy trial delays remained a problem (see section 1.d.). Defendants do not have the right to a speedy trial, nor is there any limit to how much time a case can take. Defense lawyers claimed that judges sometimes refused to let them call witnesses on their clients' behalf or to question key government witnesses. Defense lawyers contended that the courts often failed to grant them adequate notice of trial dates, or to allow them time to prepare their cases. Some reported that judges restricted access to evidence and court records, and in some cases, required all the lawyers working on a case to examine documents together on a single date in judges' chambers, without allowing them to copy relevant documents.

Lawyers and human rights organizations reported that courts routinely failed to investigate allegations of torture and mistreatment and accepted as evidence confessions extracted through torture (see section 1.c.). They noted that the summary nature of court sessions sometimes prevented reasoned deliberation. They also stated that erratic court schedules and procedures were designed to deter observers of political trials.

Military tribunals have the authority to try cases involving military personnel and civilians accused of national security crimes. A military tribunal consists of a civilian judge and four military deputy judges. Defendants may appeal the military tribunal's verdict to the civilian Supreme Court, which considers arguments on points of law as opposed to the facts of a case.

*Political Prisoners.*—The government denied that it held any political prisoners, and there was no definitive information regarding the number, if any, of such prisoners. Nevertheless, in 2004 the AISPP published a list of 542 names of individuals whom it considered political prisoners. The AISPP stated that impediments to gathering information about prisoners made it very likely that the total number of political prisoners was higher. Nearly all of these prisoners were Islamists, but very few were convicted for acts of violence. Most of those who were identified by international human rights groups as political prisoners or prisoners of conscience were arrested for violating laws that prohibit membership in illegal organizations and spreading false information aimed at undermining public order. Many were arrested for disseminating information produced by organizations such as An-Nahdha. Former political prisoners said their identity papers were marked in a way that resulted in their receiving harsher treatment.

On June 15, the government released Lotfi Amoudi, who the AISPP stated was a political prisoner. He had served 14 years in prison and was released in poor health after having undergone a 26-day hunger strike.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions "except in exceptional cases defined by law"; however, the government generally did not respect these prohibitions in practice. Police sometimes ignored the requirement to have a warrant before conducting searches if authorities considered state security to be involved. On March 20, unknown persons broke into AISPP President Mohamed Nouri's car and searched his papers. Nouri charged that the thieves stole his car stereo to disguise the search as a theft.

Authorities may invoke state security to justify telephone surveillance. There were numerous reports by NGOs, the news media, and diplomatic representatives that the government intercepted faxes and emails. The law does not explicitly authorize these activities, but the government stated that the code of criminal procedure implicitly gives investigating magistrates such authority. Many political activists experienced frequent and sometimes extended interruptions of service to home and business telephones, faxes, and the Internet. Human rights activists accused the government of using the postal code, with its broad but undefined prohibition against mail that threatens the public order, to interfere with their correspondence and interrupt the delivery of foreign publications. Security forces routinely monitored the activities, telephone, and Internet exchanges of opposition, Islamist, and human rights activists, as well as journalists, and also placed some under surveillance (see section 2.a.).

Human rights activists claimed that the government used charges of "association with criminal elements" to punish family members of Islamist activists for crimes allegedly committed by the activists. Family members reportedly were denied jobs, business licenses, and the right to travel due to their relatives' activism. They also alleged that relatives of Islamist activists, in jail or living abroad, were subjected

to police surveillance and mandatory visits to police stations for questioning about their activist relatives. The government maintained that the relatives were themselves members or associates of the An-Nahdha movement, and therefore were subject to laws prohibiting membership in or association with that organization.

Human rights activists reported that upon release from prison, detainees suspected of An-Nahdha membership received identity cards marked to restrict their employment, unlike past reports that the identity cards were confiscated. Even if they had not been jailed, the authorities confiscated the identity cards of some activists and Islamists. For example, AISPP member Lasaad Johri has been deprived of an identity card since 1999.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press “exercised within the conditions defined by the law”; however, the government generally did not respect these rights in practice. It limited press freedom and intimidated journalists, editors, and publishers into practicing self-censorship. Security forces closely monitored press activity.

The law prohibits citizens from discussing national politics on foreign radio or television channels during the two weeks prior to national elections; however, there were no cases in which the law was invoked during the year.

Security forces often questioned citizens seen talking with foreign visitors or residents, particularly visiting international human rights monitors and journalists. The government attempted to influence public meetings by surrounding meeting places with scores of plainclothes policemen (see section 2.b.), as happened at the May 6 meeting on World Press Freedom Day, when plainclothes policemen lined the street leading up to the office of the Tunisian League of Human Rights.

The government stated that there were 950 foreign publications and newspapers distributed in the country and that 90 percent of the newspapers were “privately owned and editorially independent.” However, of the eight mainstream dailies, two were government owned, two were owned by the ruling party, and two, though nominally private, took editorial direction from senior government officials. All media were subject to significant governmental pressure over subject matter.

There were three opposition party newspapers with small circulations and editorial independence from the government. Nevertheless, two of them, *Ettariq El Jadid* and *Al-Wahda*, received government subsidies under a law that provides government financing to papers representing opposition parties with seats in parliament. The third, *Al-Mawqif*, did not receive the subsidy since its party was not represented in parliament.

While the government permitted public criticism in opposition newspapers, the government impeded similar criticism in the mainstream press. Individuals and certain groups faced reprisal for statements critical of the government. For example, on April 28, a court found Mohamed Abbou, a lawyer, guilty of publishing statements “likely to disturb the public order” in which he compared the fate of Iraqi prisoners in Abu Ghraib to that of citizen prisoners. He was arrested following the online publication of another article in which he unfavorably compared the country’s president to Israeli Prime Minister Ariel Sharon.

During the year there were no reports of journalists being arrested. Abdullah Zouari, a journalist who once worked for *Al-Fajr*, the weekly newspaper of the An-Nahdha party, remained under administrative control and in internal exile. Zouari undertook a number of hunger strikes during the year to bring attention to his situation. Hamadi Jebali, a former editor of *Al-Fajr*, remained in prison serving his six-year sentence for insurrection and “membership in an illegal organization.” In April, Jebali undertook a hunger strike to end his solitary confinement in prison. According to Reporters Without Borders (RWB), Jebali’s conditions of imprisonment improved, and he ended his strike in late April. However, Jebali undertook two other hunger strikes later in the year to protest his continued imprisonment.

In the days before and during the UN World Summit on the Information Society, held in Tunis from November 16–18, the government harassed journalists and restricted press freedom.

On the night of November 11, four men attacked Christophe Boltanski, a journalist for the French newspaper *Liberation*, beating and slashing him with a knife and stealing his mobile telephone and documents. Boltanski had been reporting on demonstrations in support of the Movement of 18 October hunger strikers (see section 2.b.). Following the attack, international and local civil society organizations accused the security forces of organizing the assault. The government claimed it had arrested two suspects in the attack.

On November 14, according to international media and NGO reports, plainclothes policemen pulled Jean Jacques Mathy of the Belgian TV station RBF from his car



and seized his video camera and cassette. The camera was subsequently returned without the cassette. Mathy was accompanying reporter Marianne Klaric and local human rights activist Rahdia Nasraoui to a meeting of NGOs at the foreign government-sponsored Goethe Institute (see section 2.b.).

During the year the government moved to abolish "*depot legal*," which had been a requirement that the government approve all printed material prior to publication or distribution. The action followed the president's announcement May 27 that "*depot legal*" would be abolished and the subsequent lifting of restrictions on printed media. Other press restrictions continued, including prior review of books.

Article 25 of the Press Code stipulates that the publication, introduction, and circulation of foreign works may be restricted. Authorities restricted the timely purchase of foreign publications that included articles deemed critical of the country. For example, authorities held the distribution of the May 22 edition of *Jeune Afrique L'Intelligent* due to its article on the reaction of local lawyers to the Abbou case.

The law authorizes sentences of up to three years in prison for defamation of constituted bodies, the administration, government members or deputies, and up to five years in prison for offensive statements against the president. Charges for defamation were brought against the editor of *Al Mawqif* for a 2004 article calling for an investigation into the railroad system. The case remained pending at year's end.

Directors and owners of existing private media, as well as journalists at the government and ruling party-owned press, practiced a high degree of self-censorship. Journalists in the mainstream press regularly refrained from investigative reporting on national issues. Only the small opposition press reported regularly on controversial national issues.

On May 3, three independent members of the Board of the Tunisian Journalists Association published a report in the name of the association that reported the "rampant violations undergone by journalists under the form of censorship, harassment and various other sorts of oppression." On May 27, one of the members, Neji Bghouri, was held in police headquarters, but no formal charges were brought against him.

Government regulations required foreign correspondents to obtain written approval before videotaping in any public area. The government also controlled the satellite transmissions of local correspondents reporting for foreign television stations by refusing to license correspondents and insisting that all correspondents use government-owned facilities for satellite uplinks.

Newspapers were often pressured to carry the government wire service's version of an event, even when their own journalists were present. Following a press conference held by the Tunisian Lawyer's Association on the Mohamed Abbou case, government representatives told journalists present not to write about the event.

The government maintained tight control of the broadcast media. Although the private broadcast media made some inroads in social and sports commentary, both private and government-owned radio stations confined broadcast news to international and uncontroversial national issues.

The negotiations over the licensing of the Hannibal private television station included a stipulation that it would not broadcast news. The granting of the licenses for the three existing private broadcast media was not transparent, and several requests for licenses, some dating back for years, remained in limbo. However, the government did not restrict the widespread possession of satellite dishes.

The government pressured journalists and the media in a variety of ways, including control over licensing, journalist accreditation, and directing the placement of government advertising. The government continued to exercise tight control over the licensing of new newspapers. Although there were at least 11 existing applications, the government did not allow the creation of any new newspaper. The government withheld press credentials from, and delayed granting passports to, journalists with whom it was displeased, including Slim Boukhdar, who in 2004 posed a question in a press conference implying that relatives of the president had pressured the judiciary to influence a legal case. The government did not grant government press cards to other experienced journalists, including Lotfi Hajji, Abdelatif Fourati, Slaheddine Jouchi, and Mohamed Fourati. Such press cards were needed for official accreditation as a journalist and were reviewed on an annual basis.

On September 10, officials at the Ministry of Interior prevented Sihem Ben Sedrine, a journalist, publisher, and one of the founders of the CNLT, from registering her newspaper *Kalima*, whose website remained blocked within the country (see section 2.b.) It was Ben Sedrine's fourth attempt to register the publication. Ben Sedrine and international human rights NGOs alleged that the government refused registration of *Kalima* due to its commentary critical of the government.

According to media editors, senior government officials routinely called news directors and editors to inform them which issues they were forbidden to print and to direct editorial content and news coverage. The Tunisian Agency for External Communications enforced this policy and other informal censorship mechanisms by selective placement of government advertising. In addition, private companies were consistently unwilling to advertise in newspapers no longer receiving government advertisements to avoid the appearance of siding with the media organization being punished.

Book publishing continued to be subject to “*depot legal*” as set out in Article 8 of the press code. In its February report, the Tunisia Monitoring Group of the International Exchange on Freedom of Expression provided a list of 21 books or academic works by local authors who were censored in the country.

The government blocked access to a number of Internet websites, including nearly all sites belonging to domestic human rights, opposition, and Islamist groups. In April 2004 the government allowed access to several foreign websites that previously had been blocked, including Hotmail, Al Jazeera, Al, and the French daily *Liberation*. Some foreign human rights websites remained blocked, including that of RWB. In November the OpenNet Initiative, a collaboration of universities in several nations studying government attempts to control Internet information, reported that the government had blocked 10 percent of the 2 thousand websites it tested. AISPP reported that potentially hundreds of persons had been arrested for visiting suspicious terrorism-related websites and were detained without proper legal procedures or sufficient evidence of having committed a crime. A July report on “cyber freedom,” published by the Arab Information Network on Human Rights, ranked the country last among 11 Arab countries.

The government limited academic freedom and sought to foster a culture of self-censorship in universities. The government closely monitored administrators, teachers, and students to identify any political activity. Police on university campuses, both in uniform and in plainclothes, discouraged students from openly expressing dissent. In March police assaulted students during campus demonstrations against the government’s invitation to Israeli Prime Minister Ariel Sharon to attend a UN summit. Police arrested one faculty member and several students (see section 2.b.).

Authorities subjected academic publications to the pro forma process of submission to the government before publication, and university libraries did not purchase foreign books or subscribe to foreign magazines deemed critical of the government. Tight government control over academic research funds prevented university administrators from applying for grants on research topics that they believed the government would find objectionable. Professors avoided teaching classes on subjects considered sensitive, such as legal courses on political systems or classes on civil liberties. University professors often avoided discussion of any subject deemed sensitive enough to interest the government, and faculty members reported that they were hesitant to gather in groups outside the classroom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, but the government restricted this right in practice.

*Freedom of Assembly.*—The law requires groups wishing to hold a public meeting, rally, or march to obtain a permit from the Ministry of Interior no later than three days before the proposed event and to submit a list of participants; the authorities routinely approved such permits for groups that supported government positions and generally refused permission for groups that expressed dissenting views. As in previous years, NGO leaders reported difficulty in renting space to hold large meetings. They maintained that police pressured hotel and hall managers to prevent them from renting meeting space. Hotel managers and businessmen denied that there was a specific ban on renting space to opposition groups; however, they said they cooperated with the Ministry of Interior and accommodated its requests when possible.

In September a local hotel withdrew the reservation of the Tunisian Journalist’s Syndicate (SJT), which had planned to hold a congress at the hotel. On August 24, police told SJT leader Lotfi Hajji that the government did not recognize the SJT and that the organization would not be permitted to hold a congress.

On November 10, organizers of the “Citizen’s Summit on the Information Society,” an unofficial parallel summit to the UN World Summit on the Information Society and sponsored by a group of international and national civil society organizations, reported that after reserving a venue for the conference at a hotel in Tunis, the hotel notified them that the hall was no longer available, citing the sudden need for repair work. On November 14, representatives of the organizations planning the citizen’s summit tried to meet at the Goethe Institute, but they were prevented from entering by several dozen plainclothes police. According to HRW representatives,

the police, who did not identify themselves, “manhandled local and foreign activists, knocking down several individuals as they pushed them along the streets.”

The government used police and other state security forces to monitor, control, and sometimes disrupt demonstrations. The government broke up several unsanctioned demonstrations during the year. In general demonstrators and security forces did not resort to violence; however, there were some exceptions, such as scuffles ensuing from demonstrators’ attempts to cross police lines or demonstrators not dispersing when ordered by police.

In March the government refused to allow several demonstrations to take place. Opposition groups, human rights NGOs, and students had petitioned to demonstrate in protest of the government’s invitation to Israeli Prime Minister Ariel Sharon to attend the World Summit on the Information Society. Despite the ban, several protests took place. There were multiple reports that police assaulted several opposition leaders, human rights activists, and students during one demonstration.

*Freedom of Association.*—The law provides for freedom of association; however, the government generally did not respect this right in practice. The law requires that new NGOs submit an application to the government to gain recognition and to operate legally. According to the law, an NGO that has filed an application to register may operate freely while the government processes its application. If the government does not reject the application within 90 days, the NGO is automatically registered.

The government routinely blocked the registration of new independent NGOs by refusing to provide receipts for their registration applications. Without such a receipt, NGOs were unable to counter the government’s assertions that they had not applied to register and therefore were not allowed to operate. In such cases, NGOs could be shut down, their property seized, and their members prosecuted for “membership in an illegal organization.”

During the year significant numbers of RCD members attempted to join independent NGOs, such as the LTDH and other civil society groups, with the apparent intent of eventually gaining control of the NGOs through elections or disrupting their operations. For example, in September a court ruled that the LTDH could not hold its national congress because of a suit filed by seven members of the LTDH allegedly loyal to the RCD. In some cases RCD members used the NGOs’ own by-laws, while in other cases they exploited a provision of the law on associations that requires “organizations of a general character” to grant membership to all who apply.

Leaders of the AMT also alleged that the government used members loyal to the RCD to disrupt its meetings and operations. AMT members under government and RCD control held new elections for AMT leadership after the current president proposed new judicial reform initiatives and supported a group of lawyers that alleged improprieties in the trial of Mohamed Abbou (see section 1.c.). These RCD-loyal AMT members claimed that the president’s communiqué was not representative of all AMT members. In August the government evicted AMT leadership from the association’s headquarters in Tunis. Human rights organizations stated that the government removed the current AMT leadership due to its demonstrated independence.

*c. Freedom of Religion.*—The law provides for freedom of religion that does not disturb public order, and the government generally respected this right in practice, although there were some restrictions and abuses. Islam is the state religion, and the law stipulates that the president must be a Muslim.

The government recognizes all Christian and Jewish religious organizations that were established before independence in 1956. Although it permitted other Christian denominations to operate, the government formally recognized only the Catholic church.

The government allowed the re-opening of a Catholic church in Djerba, but did not permit Christian groups to establish new churches.

While it is not illegal to change religions, Muslims who convert to another religion face social ostracism. The government requires non-Muslim men to convert to Islam before marrying a Muslim woman. The government did not allow married couples to register their children with non-Muslim names.

While authorities did not deport foreigners suspected of proselytizing, the government did not renew the visas of suspected missionaries. During the year there were no reported cases of official action against persons suspected of proselytizing.

The government required Islamic religious education in public schools, and the religious curriculum for secondary school students also included histories of Judaism and Christianity.

The government did not permit the establishment of political parties based on religion, and it used this prohibition to continue to outlaw the Islamist party An-Nahdha and to prosecute suspected An-Nahdha members for "membership in an illegal organization" (see section 1.e.). The government continued to maintain tight surveillance over Islamists and monitored activity in mosques.

The law provides that only persons appointed by the government may lead activities in mosques. The government required that mosques remain closed except during prayer times and other authorized religious ceremonies, such as marriages or funerals. According to human rights lawyers, the government regularly questioned individuals observed praying frequently in mosques. Authorities instructed imams to espouse governmental social and economic programs during prayer times in mosques. The government paid the salaries of imams.

The government sought to suppress certain outward signs of citizens' religious practice. For example, authorities characterized the hijab as a "garment of foreign origin having a partisan connotation" and officially prohibited its use in public institutions in order to "observe impartiality required of officials in their professional relations with others." However, in practice, wearing of the hijab in public places was sometimes permitted. In several cases, school officials took disciplinary action to punish and deter hijab use by attempting to have women sign written oaths renouncing its use. There were reports that police sometimes detained men with what were termed "Islamic" beards, compelling them to shave.

Religious publications were subject to the same restrictions on freedom of speech and the press as secular publications. Christian groups were generally allowed to distribute religious documents in English but not in Arabic. Only sanctioned religious groups were allowed to distribute religious documents. In the government's view, distribution by other groups constituted an illegal "threat to public order" (see section 2.a.). The government held a lottery to determine which citizens could make the hajj due to country quotas from the Saudi Arabian government on how many nationals from each country could participate in the Hajj.

*Societal Abuses and Discrimination.*—Privately owned newspapers on occasion published cartoons and articles critical of Israel. Some cartoons used derogatory images of orthodox Jews to portray the state of Israel and Israeli interests. These cartoons were drawn by cartoonists outside of the country and reprinted locally.

Christians and Jews living in the country, including foreigners, constituted less than 1 percent of the population. The government permitted Christians and Jews who did not proselytize to worship as they wished, and it allowed Jewish communities to operate private religious schools. Jewish children on the island of Djerba were permitted to divide their academic day between public secular schools and private religious schools. The government also encouraged Jewish foreigners to return for the annual pilgrimage to the historic El-Ghriba Synagogue on Djerba.

Jewish community leaders reported that the government increased its traditionally active role in protecting synagogues, particularly during Jewish holidays. The government allowed the Jewish community freedom of worship and paid the salary of the grand rabbi. The government partially subsidized restoration and maintenance costs for some synagogues. While the government during the year did not act on a 1999 application to grant permanent registration to the Provisional Committee of the Jewish community to function as a sanctioned association, the leadership of the committee met weekly and performed religious activities and charity work.

In December 2004 the government announced that it would no longer require Israeli citizens to deposit their passports at the border for the duration of their visit to the country. The government also announced that a former Hebrew school would be restored and made into a training center of the arts for persons with disabilities, and indicated that the Jewish cemetery of Tunis would be restored. The number of Jewish pilgrims to El-Ghriba in May increased dramatically from previous years. According to Jewish leaders, approximately one thousand pilgrims were Israeli citizens.

During the year authorities did not report any anti-Semitic activities.

While Baha'is do not consider themselves Muslims, the government regarded the Baha'i faith as a heretical sect of Islam and permitted its adherents to practice their faith only in private. Interior ministry officials periodically met with prominent Baha'i leaders to discuss their community's activities, leading to an improved relationship between their community and the government.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, Repatriation, and Exile.*—The law provides for these rights, and the government generally respected them in practice; however, the government refused to issue, renew,

amend, or accept passports of some dissidents, Islamists, and their relatives. The government also may impose a five-year period of "administrative controls" at sentencing on certain former prisoners that constituted a type of internal exile.

The law authorizes the courts to cancel passports and contains broad provisions that both permit passport seizure on national security grounds and deny citizens the right either to present their case against seizure or to appeal the judges' decision. The Ministry of Interior is required to submit requests to seize or withhold a citizen's passport through the public prosecutor to the courts; however, the ministry routinely bypassed the public prosecutor with impunity.

Many citizens reported difficulty applying for or renewing their passports and accused the government of blocking their applications solely on the basis of political opposition.

Former Islamist leader Dr. Mohamed Sedki Labidi has been deprived of his passport for the last decade without a court decision. During the year the government issued a passport to Mokhtar Boubaker, a labor leader and former chief editor of the General Union of Tunisian Workers (UGTT) weekly, *Esch-Chaab*, after refusing to issue one since 2001. No reason was given by the Ministry of Interior, either for the original denial or the current issuance.

The law prohibits forced exile; however, the penal code provides for the imposition of a form of internal exile (which the government calls "administrative control") on convicts for up to five years. Administrative control measures, which take effect upon a convict's release from prison, are similar to parole restrictions, except that they may be applied to prisoners even after they have completed their sentences. The government requires those individuals to reside in an indicated place, chosen by the government, which may be anywhere in the country, and they are required to stay "in the area of their residence." They also may be required to report to a police station frequently each day, at times determined only the previous evening. At the police station, they may be forced to wait hours before they are allowed to sign in, making employment impossible. Numerous Islamists released from prison in recent years have been subjected to such continuing punishment.

By law, administrative control measures may only be imposed at sentencing; however, a former high school teacher, Nouri Chniti, claimed that, although his sentence did not include administrative control, he has been subject to extrajudicial administrative control measures since 1991 when he received a suspended sentence for membership in An-Nadha.

Some political opponents in self-imposed exile abroad were prevented from obtaining or renewing their passports to return to the country. During the year a group of citizens abroad who had been refused passports formed an organization called "Tunisians Without Passports" and released communiqués calling on the government to allow all citizens to receive passports.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The government cooperated to a certain degree with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers, but the government has not established a system for providing protection to refugees or foreign nationals who may not qualify as refugees under the 1951 Convention and 1967 protocol, but who still need some form of international protection. In practice, the government did not provide protection against *refoulement*, the return of persons to a country where they feared persecution.

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

The law provides that citizens shall directly elect the president and members of the chamber of deputies for five-year terms; however, there were significant limitations on citizens' right to change their government. Moreover, there were irregularities that routinely called into question the legitimacy of elections.

*Elections and Political Participation.*—In the October 2004 national elections, President Ben Ali faced three candidates and received approximately 94 percent of the popular vote to secure a fourth term. The third opposition candidate, Mohamed Halouani of the Et Tadjid party, cited government restrictions and other irregularities to explain why he received less than 1 percent of the official vote count. According to official election returns, more than 90 percent of registered voters went to the polls; however, independent NGOs estimated that the actual turnout was closer to 30 percent, casting serious doubt on the election.

Irregularities such as voter intimidation also characterized the polling. A coalition of three local independent NGOs (LTDH, CNLT, and the Tunisian Association of Democratic Women) cited as serious problems the opposition's lack of media access

during the campaign and media bias in favor of the ruling party. Opposition candidates and other observers also cited restrictions on disseminating campaign materials and organizing campaign events.

The Electoral Code significantly limits the number of individuals eligible to run for president. A candidate must be Muslim and must receive the endorsement of 30 sitting deputies or municipal council presidents to be eligible to run. By law, 20 percent of the seats in one house of the legislature (Chamber of Deputies) are reserved for opposition party candidates. The ruling party's domination of state institutions and political activity precluded any credible and competitive electoral challenges.

On March 15, the National Election Observatory, formed by the government in 2004 to monitor all stages of the 2004 elections, issued its report, concluding that the electoral process in general proceeded fairly and according to law. The report contained references to opposition and NGO criticism of the election, including the non-distribution of voting cards to opposition party members, the ruling party's media advantage, the lack of transparency of the actual balloting, and secret ballot counts. While the report refuted the claims, it also listed 12 specific recommendations to address problems. Independent human rights activists complained that the real purpose of the observatory was to deflect criticism over the lack of independent or international observers.

The ruling party has maintained power continuously since the country's independence in 1956. It dominates the cabinet, the chamber of deputies, and regional and local governments.

On July 3, the government conducted elections for the Chamber of Advisors, a second parliamentary chamber created by a 2002 constitutional amendment. The voters consisted of 4,555 officials, including municipal counselors, deputies, and mayors, plus the 189 members of the Chamber of Deputies. Of the 4,555 voters, only 305 belonged to opposition parties. The constitutional amendment creating the chamber specified that its 126 seats must be allocated among various regional and professional organizations, including 14 seats for the UGTT, which refused to name candidates, citing a lack of independence and democracy in the candidate selection process. The president appointed directly 41 candidates. The elected members of the new chamber were overwhelmingly members or supporters of the ruling RCD party.

The president appoints the prime minister, the cabinet, and the 24 governors. The government and the party are closely integrated; current and former senior government officials constitute the top ranks of the RCD. The president of the country is also the president of the party, and the party's vice president and secretary general each hold the rank of minister. All the members of the RCD politburo hold ministerial rank based on their current or former government service.

RCD membership conferred tangible advantages. For example, there were widespread reports that RCD members and their families were much more likely to receive educational housing benefits, small business permits, and waivers on zoning restrictions.

To mitigate the advantages wielded by the ruling party, the Electoral Code reserves 20 percent of seats in the Chamber of Deputies (37 of 189) for the seven officially recognized opposition parties, and distributes them on a proportional basis to those parties that won at least a single directly elected district seat. In the October 2004 elections, five of the opposition parties gained seats under that provision. The RCD continued to hold the remaining 152 seats.

The government partially funded opposition parties. Each party represented in the chamber of deputies received a public subsidy of approximately \$42,000 (60,000 dinars), plus an additional payment of \$3,500 (5,000 dinars) per deputy. The government also provided \$105,000 (120,000 dinars) to each newspaper of an opposition party represented in the legislature. On November 30, the president announced an increase in the level of support for opposition parties represented in the chamber. The government raised the public subsidy for operational costs of opposition parties \$56,300 (75,000 dinars) per year, raised the additional payment per deputy to \$5,300 (7,500 dinars), and increased the level of government funding for opposition newspapers to \$112,500 (150,000 dinars).

By law, the government does not permit the establishment of political parties on the basis of religion, language, race, or gender. The government used the prohibition to continue to outlaw the Islamist An-Nahdha party and to prosecute suspected members for "membership in an illegal organization" (see sections 2.b. and 2.c.). The government refused to recognize the creation of the Tunisian Green Party.

On a number of occasions, the president expressed the desire to increase the level of representation of women in the government to 25 percent. In April 2004 he appointed the country's first female governor. There were 50 women in the 301-seat legislature, 2 women in the 25-seat cabinet, and 5 women among the 18 secretaries of state. Following municipal elections in May, more than one-fourth of municipal

council members elected were women. Three women served as presidents of chambers on the Supreme Court, and two women served on the 15-member Higher Council of the Magistracy. The government conducted the first elections without gender segregation during a September 2004 by-election in a governorate on the outskirts of Tunis.

*Government Corruption and Transparency.*—There are 13 articles of the penal code concerning penalties for corruption, and there were a small number of corruption cases prosecuted throughout the year. In March 2004 the Minister of Interior announced the creation of the “Higher Institute of Security Forces and Customs,” tasked not only with “reinforcing human rights and improving law enforcement,” but also reducing corruption. There were no public reports of the organization’s subsequent activities. There are no laws to provide government documents to citizens.

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

A variety of domestic and international groups generally were able to investigate and publish their findings, although with some difficulty, but the government actively discouraged investigations of human rights abuses. According to the government, there were more than eight thousand NGOs in the country devoted exclusively to social and economic development issues. The government sought to monitor and control the activities of some foreign NGOs within the country. There were approximately one dozen domestic human rights NGOs, although only half were authorized. The government met with registered domestic human rights NGOs and responded to their inquiries; however, it also harassed, targeted, and prosecuted some of them.

The LTDH was one of the most active independent advocacy organizations, with 41 branches throughout the country. The organization received and investigated complaints and protested abuses, although the government rarely responded to LTDH communiqués. The government continued to block a European Union grant to the LTDH, citing a law on NGO financing that includes broad prohibitions on funding of NGOs without government approval.

Other independent human rights NGOs included: the legally registered Arab Human Rights Institute; the Tunisian Association of Democratic Women (ATFD); the unregistered AISPP; and the ALTT.

Since 1998 the government has refused to authorize the CNLT’s registration as an NGO. The CNLT issued statements sharply criticizing the government’s human rights practices. Government officials have accused CNLT members of violating the pro forma submission requirements by publishing communiqués without prior government approval (see section 2.a.).

During the year significant numbers of ruling party RCD members continued attempts to join independent NGOs, such as the LTDH and other civil society groups, with the apparent intent of eventually gaining control of the NGOs through elections (see section 2.b.).

In May the government refused to issue a visa to a member of AI’s regional office in Beirut. According to local news sources, the AI member was attempting to participate in a human rights training session. On November 17, Robert Menard, Secretary General of RWB, attempted to enter the country to attend the UN World Summit on the Information Society. According to Menard, security agents boarded his plane upon landing and informed him that he was not allowed to enter the country. A government spokesman later said Menard could not enter because of ongoing legal proceedings in the country relating to a 2002 protest of the country’s tourist office in Paris. The government blocked RWB’s website, which contained critical material on the country’s human rights record.

In April HRW held a press conference in Tunis to announce a report on solitary confinement (see section 1.c.).

The International Freedom of Expression Exchange—Tunisia Monitoring Group (IFEX-TMG), a coalition of international human rights and freedom of expression NGOs, conducted fact-finding missions during the year. The IFEX-TMG reported heavy police surveillance of their activities and government interference with their mission. Police prevented translators and private citizens traveling with the group from attending some meetings.

In April the ICRC signed an agreement with the government that the local office could conduct visits to all prisons and detention centers in the country. The agreement followed more than a year of negotiations. The ICRC conducted visits starting in June and reported that access and cooperation with the government were good (see section 1.c.). There were credible reports that police prevented some family members of prisoners from visiting ICRC offices. In September police allegedly assaulted the wife of an Islamist prisoner when she left AISPP offices, and they also

prevented her from entering ICRC offices, reportedly telling her that she would be “put in prison with (her) husband” if she tried to enter the ICRC office.

The Ministry of Justice and Human Rights has the lead on government policy on human rights issues in the country, although other ministries also had human rights offices. The ministry did not release any public reports of cases or investigations. A government-appointed and funded body, the Higher Commission on Human Rights and Basic Freedoms, addressed, and occasionally resolved human rights complaints. The commission submitted confidential reports directly to the president. The government maintained several government-run news sites that include sections on human rights, but the sites are not specifically identified as government sponsored. However, the government continued to block access to the sites of domestic human rights organizations (see section 2.a.).

#### *Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The law provides that all citizens are equal before the law, and the government generally respected this right, although in inheritance and family law, biased-based provisions in the civil code adversely affected women.

*Women.*—Laws against domestic violence provide for fines and imprisonment for assaults committed by a spouse or family member that are double those for the same crimes committed by an unrelated individual, but enforcement was lax, as police and the courts generally regarded domestic violence as an internal family problem. Violence against women and spousal abuse occurred, but there were no statistics to measure its extent. The National Union of Tunisian Women (UNFT), a government-sponsored organization that ran a center to assist women and children in difficulty, sponsored national educational campaigns for women. The UNFT reported that its shelter handled one thousand cases during the year. The ATFD, active in debating and publicizing women’s issues, operated a counseling center for female victims and reported that its shelter assisted approximately 100 women using the shelter for the first time during the year, in addition to a continuing caseload from previous years.

The penal code specifically prohibits rape, including spousal rape, and the government enforced the laws vigorously, giving significant press coverage to rape cases. Perhaps due to social stigma, there were no reports of prosecution for spousal rape. The death sentence is the penalty for rape with the use of violence or threat with a weapon. For all other rape cases, the penalty is life imprisonment.

The penal code prohibits prostitution, although individuals were rarely charged. The penalty for prostitution is up to two years in prison. The law applies to both women and men and their accomplices. There were no reported cases of trafficking or forced prostitution involving women.

In August 2004 the chamber of deputies passed the country’s first law making sexual harassment a criminal offense, but the government subsequently suspended the law after civil society groups vociferously criticized it. Nevertheless, sexual harassment was a problem, although there were no comprehensive data to measure its extent.

Women enjoyed substantial rights, and the government advanced those rights in the areas of divorce and property ownership. Women enjoy the same legal status as men. The law explicitly requires equal pay for equal work, and although there were no statistics comparing the average earnings of men and women, anecdotal evidence indicated that women and men performing the same work received the same wages. A slight majority of university students were women.

Women served in high levels of the government as cabinet ministers and secretaries of state, comprising more than 13 percent of the total, and President Ben Ali appointed the country’s first female governor in April 2004 (see section 3). Women constituted approximately 37 percent of the civil service and 24 percent of the nation’s jurists. However, women still faced societal and economic discrimination.

Codified civil law is based on the Napoleonic code, although judges often used Shari’a as a basis for customary law in family and inheritance. Most property acquired during marriage, including property acquired solely by the wife, is held in the name of the husband. Muslim women are not permitted to marry outside their religion. Marriages of Muslim women to non-Muslim men abroad are considered common-law and are voided when the couple returns to the country. Application of inheritance law continued to discriminate against women, and there was a double standard based on gender and religion: non-Muslim women and Muslim men who are married may not inherit from each other. The government considers all children from those marriages to be Muslim, and forbids those children from inheriting anything from their mothers. Female citizens can convey citizenship rights to their children whether the father is a citizen or not.



In February 2004 the government launched a morality campaign invoking a 1940 law penalizing “immoral behavior” that observers said primarily affected women. For example, women were detained for wearing jeans that police judged too tight, for holding hands with men in public, and for driving with young men “without authorization.” However, this campaign was discontinued later in 2004, and there was no enforcement of these penalties during the year.

The Ministry for Women’s Affairs, Family, Children and Senior Citizens sponsored several national media campaigns to promote awareness of women’s rights. Nearly two-thirds of its budget was devoted to ensuring the legal rights of women, while simultaneously improving their socioeconomic status. The government supported and funded the UNFT, the Center for Research, Documentation, and Information on Women (CREDIF), and women’s professional associations. Several NGOs focused on women’s advocacy and research in women’s issues, and a number of attorneys represented women in domestic cases.

*Children.*—The government demonstrated a strong commitment to free and universal public education, which is compulsory from age 6 to 16 years. According to the UN Children’s Fund (UNICEF), 95 percent of boys and 93 percent of girls were in primary school, and approximately 73 percent of boys and 76 percent of girls were in secondary school. During the year, female students graduated from secondary school at a higher rate than their male counterparts. There were schools for religious groups (see section 2.c.). The government sponsored an immunization program targeting preschool-age children and reported vaccinating more than 95 percent of children. Male and female students received equal access to medical care.

Convictions for abandonment and assault on minors carried severe penalties. There was no societal pattern of child abuse.

Child labor and child prostitution were not significant problems. There were two ministries responsible for rights of children: the Ministry of Women’s Affairs, Family, and Childhood, and the Ministry of Youth, Sports, and Physical Training. Each had secretaries of state responsible for safeguarding the rights of children.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

In January 2004 the legislature approved amendments to the 1975 law on passports and travel documents. The law includes provisions for sentencing convicted traffickers to prison terms of 3 to 20 years, and fines of \$67 thousand to \$83 thousand (80 thousand to 100 thousand dinars). The amendments brought national law into conformance with the international protocol agreement on trafficking of persons. The government prepared to use provisions of the penal code to combat trafficking should the need arise. For example, traffickers could be prosecuted under laws prohibiting forced displacement of persons.

The Ministry of Interior and Local Development and the Ministry of Social Affairs, Solidarity and Tunisians Abroad were the agencies responsible for antitrafficking efforts. Since trafficking was not deemed a problem, there were no specific government campaigns to prevent trafficking.

*Persons with Disabilities.*—The law prohibits discrimination against those with physical or mental disabilities and mandates at least 1 percent of public and private sector jobs be reserved for persons with disabilities, and the government generally enforced these provisions. There was little discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. All public buildings constructed since 1991 must be accessible to persons with physical disabilities, and this was enforced. The government issued special cards to persons with disabilities for benefits such as unrestricted parking, priority medical services, preferential seating on public transportation, and consumer discounts. The government provided tax incentives to companies to encourage the hiring of persons with physical disabilities, and the government strongly supported NGOs working to help persons with disabilities.

Several active NGOs provided educational, vocational, and recreational assistance to children and young adults with mental disabilities. The government and international organizations funded several programs. The Ministry of Social Affairs and Solidarity and Tunisians Abroad was responsible for protecting the rights of persons with disabilities.

#### Section 6. Worker Rights

*a. The Right of Association.*—The law provides workers the right to organize and form unions, and the government generally respected this right in practice. The UGTT was the country’s only labor federation. There were some unauthorized, independent trade unions: the Democratic Confederation for Labor and the Tunisian Journalists Syndicate. Approximately 30 percent of the work force belonged to the

UGTT, including civil servants and employees of state-owned enterprises, and a considerably larger proportion of the work force was covered by union contracts. A union may be dissolved only by court order. Approximately 27 percent of the total workforce was unionized.

The UGTT and its member unions were legally independent of the government and the ruling party; however, they operated under regulations that restricted their freedom of action. The UGTT membership included persons associated with all political tendencies. There were credible reports that the UGTT received substantial government subsidies to supplement union dues; however, UGTT leaders stated that their only funding came from modest union dues and revenue from an insurance company and hotel owned by the union. Union members and their families received additional support from the National Social Security Account (CNSS). The government provided the UGTT with land for its new headquarters and support for its construction. The central UGTT leadership generally cooperated with the government regarding its economic reform program. Throughout the year, the UGTT board showed some independence regarding economic and social issues, and in support of greater democracy. At mid-year, the UGTT refused to submit a list of candidates for 14 UGTT-designated seats in the newly created Chamber of Advisors, citing a lack of independence and democracy in the selection process and an unfair distribution of seats (see section 3). The UGTT supported the LTDH and allowed LTDH regional chapters to use UGTT facilities for conferences and meetings.

The law prohibits antiunion discrimination by employers, although the UGTT claimed that there was antiunion activity among private sector employers, such as the firing of union activists and using temporary workers to avoid unionization. In certain industries, such as textiles, hotels, and construction, temporary workers accounted for a large majority of the work force. The labor code protects temporary workers, but enforcement was more difficult than in the case of permanent workers. A committee chaired by an officer from the Labor Inspectorate of the Office of the Inspector General approved all worker dismissals. The committee is composed of representatives from the Ministry of Social Affairs, Solidarity and Tunisians Abroad, the UGTT, and the company dismissing the worker.

*b. The Right to Organize and Bargain Collectively.*—The law protects the right to organize and bargain collectively, and the government protected this right in practice. Wages and working conditions are set in triennial negotiations between the UGTT member unions and employers. Numerous collective bargaining agreements set standards for industries in the private sector and covered 80 percent of the total private sector workforce. The government's role in private sector negotiations was minimal, consisting mainly of lending its good offices as a mediator if talks stalled. The government must approve, but may not modify, all agreements; once approved, the agreements are binding on both union and nonunion workers in the line of work that they cover. The UGTT also negotiated wages and work conditions of civil servants and employees of state-owned enterprises. The government was the partner in such negotiations. During the year the triennial labor negotiations with the UGTT, the Union of Tunisian Employers (the private sector employer's association) and the government continued as the UGTT sought more favorable wage increases for employees.

Unions, including those representing civil servants, have the right to strike, provided that they give 10 days advance notice to the UGTT, and it grants approval. The ICFTU has characterized the requirement for prior UGTT approval of strikes as a violation of worker rights, but such advance approval rarely was sought in practice. There were numerous short-lived strikes over failure by employers to fulfill contract provisions regarding pay and conditions and over efforts by employers to impede union activities. While the majority of the strikes technically were illegal, the government did not prosecute workers for illegal strike activity. The law prohibited retribution against strikers. Labor disputes were settled through conciliation panels in which labor and management were represented equally. Tripartite regional arbitration commissions settle industrial disputes when conciliation fails.

There are export-processing zones (EPZs) subject to regular labor laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children, and there were no reports that such practices occurred. However, some parents of teenage girls placed their daughters as domestic servants and collected their wages (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under 18 in jobs whose nature and environment present a serious threat to their health, security and morality, and the UGTT and CNSS conducted inspection tours of factories and industrial sites to ensure compliance with the law.

In April the government amended the Household Workers Law to prohibit the employment of children under the age of 16 years, which is consistent with the age for completing educational requirements, and inspectors of the Ministry of Social Affairs and Solidarity examined the records of employees to verify that employers complied with the minimum age law. However, there were no reports of sanctions against employers. Child labor also existed in the informal sector disguised as apprenticeship, particularly in the handicraft industry.

The minimum age for light work in the nonindustrial and agricultural sectors during nonschool hours was 13 years. Workers between the ages of 14 and 18 must have 12 hours of rest per day, which must include the hours between 10 p.m. and 6 a.m. In nonagricultural sectors, children between the ages of 14 and 16 years may work no more than 2 hours per day. The total time that children spend in school and work may not exceed seven hours per day. Nonetheless, young children sometimes performed agricultural work in rural areas, and worked as vendors in towns, primarily during their summer vacation from school.

*e. Acceptable Conditions of Work.*—The labor code provides for a range of administratively determined minimum wages. In August the industrial minimum wage was raised to \$179 (224 dinars) per month for a 48-hour workweek and to \$155 (194 dinars) per month for a 40-hour workweek. The agricultural daily minimum wage was \$5.87 (7.33 dinars) per day for “specialized” agricultural workers and \$6.17 (7.71 dinars) per day for “qualified” agricultural workers. With the addition of transportation and family allowances, the minimum wage provided a decent standard of living for a worker and family, although that income was only enough to cover essential costs. More than 500 thousand workers were employed in the informal sector, which was not covered by labor laws.

Regional labor inspectors were responsible for enforcing standards related to hourly wage regulations. They inspected most firms approximately once every two years. The government often had difficulty enforcing the minimum wage law, particularly in nonunionized sectors of the economy. The labor code sets a standard 48-hour workweek for most sectors and requires one 24-hour rest period per week.

Special government regulations governed employment in hazardous occupations like mining, petroleum engineering, and construction, and the Ministry of Social Affairs and Solidarity and Tunisians Abroad had responsibility for enforcing health and safety standards in the workplace. Working conditions and standards generally were better in export-oriented firms than in those firms producing exclusively for the domestic market. Workers were free to remove themselves from dangerous situations without jeopardizing their employment, and they could take legal action against employers who retaliated against them for exercising this right.

The few foreign workers in the country had the same protections as citizen workers.

## UNITED ARAB EMIRATES

The United Arab Emirates (UAE) is a federation of seven semi-autonomous emirates, with an estimated resident population of 4.5 million, of which only 21 percent are citizens. The seven emirate rulers constitute the Federal Supreme Council, the highest legislative and executive body. The Council selects a president and vice president from its membership; the president, in turn, appoints the prime minister and cabinet. In November 2004 the Council selected Sheikh Khalifa bin Zayed al-Nahyan, Ruler of Abu Dhabi Emirate, as head of state for a five-year term. Traditional rule in the emirates generally is patriarchal, with political allegiance defined in terms of loyalty to the tribal leaders, to the leaders of the individual emirates, and to the leaders of the federation. There are no democratically elected institutions or political parties. There are no general elections; however, citizens may express their concerns directly to their leaders through traditional consultative mechanisms, such as the open *majlis*, or council. A consultative body, the Federal National Council (FNC), consists of 40 advisors appointed by emirate rulers for two-year terms. The civilian authorities generally maintained effective control of the security forces.

The government's respect for human rights remained problematic. The following human rights problems exist or were reported:

- no citizens' right to change the government and no popularly elected representatives of any kind
- flogging as judicially sanctioned punishment
- arbitrary detention
- incommunicado detention permitted by law

- questionable independence of the judiciary
- restrictions on civil liberties—freedom of speech and of the press, and assembly
- restrictions on right of association, particularly for human rights groups
- restrictions on religious freedom
- domestic abuse of women, sometimes enabled by police
- trafficking in women and children
- legal and societal discrimination against women and noncitizens
- corruption and lack of government transparency
- abuse of foreign domestic servants
- restrictions on and abuses of workers' rights.

The government has made steady progress in addressing the problem of trafficking of women in the sex trade and children in the camel racing industry. In July, the government enacted a law, immediately enforceable, criminalizing the participation of children under age 18 in camel racing. During the year, the government rescued, rehabilitated, and repatriated 1,034 underage boys from camel training and racing. The government opened criminal cases against more than 65 persons, convicting at least 22, for trafficking-related offenses against women and children. In December, President Khalifa announced, and the Supreme Ruling Council endorsed, a decision to indirectly elect half of the consultative FNC.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits torture, and there were no reports that government officials employed it; however, courts applying Shari'a (Islamic law) sometimes imposed flogging sentences on both Muslims and non-Muslims as punishment for adultery, prostitution, and consensual premarital sex. In March, the Dubai Shari'a court sentenced a pregnant Asian housemaid to 150 lashes and deportation for adultery.

Flogging was also imposed as punishment for defamation of character, and drug or alcohol abuse. There were credible reports that some authorities used leather straps and canes to administer floggings, which left substantial bruising, welts, and open wounds on the recipients' bodies.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards; however, prison conditions varied widely from emirate to emirate, and some rural prisons were overcrowded and had spartan living conditions. Again during the year, there were reports of prison overcrowding in Abu Dhabi and Dubai prisons. Noncitizens represented approximately 75 percent of all prisoners. Men and women were housed separately. Conditions for women were equal to or slightly better than those for men. Pretrial detainees were held separately from convicted criminals before trial. Juveniles were held separately from adults. Prisoners convicted on national security grounds were held separately from the general populace, in special sections of the regular prisons. Conditions in these sections were not significantly different than other parts of the prisons. There were credible reports that government officials discriminated against prisoners with HIV by not granting commuted sentences or parole that other prisoners with similar records had received.

Police in Dubai and Abu Dhabi stated that NGOs and the International Committee of the Red Cross have access to observe prison conditions if requested; however, there were no reports of any requests for such visits during the year.

Representatives of religious and national communities regularly met with prisoners. Representatives from the General Women's Union (GWU), a local organization partially funded by the government, regularly met with female prisoners, helped them financially, and paid airfare, when necessary, to repatriate noncitizens after their release.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, there were reports that the government held persons in official custody without charge; and that the government charged individuals but denied them a preliminary judicial hearing within a reasonable period. The law permits in-

definite incommunicado detention without appeal, and in one case the government held a prisoner incommunicado for several months at least.

*Role of the Police and Security Apparatus.*—The federal Ministry of Interior oversees Police General Directorates in each of the seven emirates; however, each emirate, via its corresponding Police General Directorate, maintains its own police force and supervises the police stations therein. While all emirate police forces theoretically are branches of the ministry, in practice they operate with considerable autonomy. Police stations take complaints from the public, make arrests, and forward all cases to the public prosecutor. These cases are then transferred to the courts. All cases are filed with the Ministry of Interior. While reported incidents of police corruption are uncommon, the ministry intervened several times in criminal cases to keep local police actions in harmony with federal law and policy.

The government has taken measures to upgrade police capability to enforce anti-trafficking standards. In May, the government created a 70-person anti-trafficking section within the Ministry of Interior, and in October Dubai Police established a special Human Trafficking section that works in conjunction with the Human Rights Care Department.

*Arrest and Detention.*—The law prohibits arrest or search without reasonable belief, but the government did not always observe these provisions in practice. There were credible reports that security forces failed to obtain warrants in many cases. Indefinite detention without charge is permitted upon judicial review.

Under the Criminal Procedures Code, police are directed to report arrests within 48 hours to public prosecutors, who must determine within the next 24 hours whether to charge, release, or further detain the suspect pending an investigation. Public prosecutors may order that detainees be held up to 21 days without charge. In cases of felonies or misdemeanors punishable by imprisonment, authorities must obtain court orders after 21 days for additional detention. Court-ordered extensions may not exceed an additional 30 days of detention without charge; however, judges may continue to renew this 30-day detention period indefinitely and without charge. Suspects have the right to protest any extensions of their detention periods ordered in absentia, although this right was not afforded in cases of incommunicado detention. An anti-terrorism law passed in July 2004 allows public prosecutors to hold suspects in terrorism-related cases without charge for 6 months, an increase over the previous 3-week limit. Once a suspect is charged, terrorism cases are handled by the Supreme Court, which may extend the detention period indefinitely.

Several diplomatic missions again expressed concern that authorities failed to provide consular notification when their citizens were detained or arrested.

There is no formal system of bail; however, authorities can release detainees temporarily who deposit money, an important document such as a passport, or an unsecured personal guarantee statement signed by a third party. Those arrested on non-security charges were generally allowed to telephone third parties while in detention.

Defendants in cases involving loss of life, including involuntary manslaughter, can be denied release in accordance with the law. Release usually is permitted after a payment of compensation to the victims' families, commonly called *diya* or "blood money," which is a form of financial penalty imposed on defendants in criminal cases involving a killing.

A defendant is entitled to an attorney only after the police have completed their investigation. As a result, police can question accused persons sometimes for days or weeks without benefit of legal counsel if the Prosecutor General approves.

There were no reports of political detainees.

*Amnesty.*—Rulers of the individual emirates regularly pardon and pay the debts of prisoners on religious and national holidays. During the year, at least 1,420 prisoners were pardoned, and \$2 million (7.2 million dirhams) in debts paid. Most pardoned foreign nationals were deported.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, its decisions are subject to review by the political leadership. The judiciary, composed largely of contracted foreign nationals potentially subject to deportation, was not generally considered independent. The law prohibits women from serving in the judiciary.

There is a dual court system. Shari'a (Islamic law) courts adjudicate criminal and family law matters based on each emirate's interpretation of Islamic law; civil courts adjudicate civil law matters. Civil courts generally are part of the federal system, except in the Dubai and Ras al-Khaimah emirates, and are accountable to the Federal Supreme Court, which has the power of judicial review as well as original jurisdiction in disputes between emirates or between the federal government and individual emirates. The emirates of Dubai and Ras al-Khaimah have their own local

and appellate courts, which have jurisdiction over matters within their territories that the constitution and federal legislation do not specifically reserve for the federal system. The emirates of Dubai and Ras al-Khaimah do not refer cases in their courts to the Federal Supreme Court for judicial review, although they maintain a liaison with the federal Ministry of Justice, Islamic Affairs, and Endowments.

Each emirate administers Shari'a courts. In some emirates, these courts consider all types of civil and commercial cases as well as criminal cases and family matters. They act in accordance with their interpretation of Islamic law, but also are required to answer to the Federal Supreme Court, with the exception of the emirates of Dubai and Ras al-Khaimah. In criminal cases, Shari'a is applied first and, if evidence required by Shari'a is found insufficient, the Penal Code is used. Dubai has a special Shi'a council to act on matters pertaining to Shi'a family law (see section 5).

*Trial Procedures.*—The constitution does not provide accused persons the right to a speedy trial, but does provide the right to a fair public trial. Civil defendants at times demanded same-day disposition of the cases filed against them. Authorities generally brought criminal defendants to trial within two to three months, with the exception of more slow-moving drug-related cases, in which authorities are required to inform the office of the ruler for the emirate in which the offense was committed. There were credible reports that these cases often took more than six months to go to trial.

Trials can last more than a year, depending on the seriousness of the charges, number of witnesses, and availability of judges. In Abu Dhabi Emirate, review of criminal cases by the local ruler's court, or *diwan*, as well as an extralegal requirement that the *diwan* approve the release of every prisoner whose sentence has been completed, resulted in bureaucratic delays in processing or releasing prisoners, and some prisoners served time beyond their original sentences.

Approximately 50 percent of federal judges were noncitizen Arabs, whose mandates were subject to periodic renewal by the government. In contrast, judicial positions held by citizens are permanent and are subject to termination only for specific reasons set out in the Judicial Authority law. The percentage of citizens serving as public prosecutors and judges, particularly at the federal level, continued to increase. Although each emirate varies, approximately 75 percent of public prosecutors were citizens.

Defendants have a limited right to legal counsel. Under the Criminal Procedures Code, the defendant has a right to request government-provided counsel in all cases involving a capital crime or possible life imprisonment, regardless of whether the defendant is financially able to hire counsel. The government may provide counsel, at its discretion, to indigent defendants charged with felonies punishable by imprisonment of 3 to 15 years. The Penal Procedures Law states that defense counsel may be present during any investigation, but only at the prosecutor's discretion.

Defendants are presumed innocent until proven guilty. All trials are before judges, not juries, and trials are public, except for national security cases and those deemed by the judge likely to harm public morality. By law all prosecutions are conducted in Arabic; the defendant has no right to a translator.

Each court system has an appeals process. Death sentences may be appealed to the ruler of the emirate in which the offense is committed, or to the president of the federation, although in the case of murder, only the victim's family may commute a death sentence. The government normally negotiates with victims' families for the defendant to offer financial compensation, or *diya*, to the victims' families to receive their forgiveness and commute death sentences.

Non-Muslims who are tried for criminal offenses in Shari'a courts can receive civil penalties at the discretion of the judge. Shari'a penalties imposed on non-Muslims can be overturned or modified by a higher court.

In cases in which a defendant is acquitted, the prosecutor may appeal the acquittal to a higher court. The higher court may receive additional evidence. An appellate court must reach unanimous agreement to overturn an acquittal.

The local rulers' *diwans*, following traditional prerogatives, maintained the practice of reviewing many types of criminal and civil offenses before cases were referred to the prosecutor's office. The *diwans* may review sentences passed by judges and return cases to the court on appeal. The *diwans'* involvement, which typically occurs when the case involves parties from two different emirates or a citizen and a noncitizen, can lead to lengthy delays prior to and following the judicial process.

The military has its own court system. Military tribunals try only military personnel. National security cases are heard solely by the Supreme Court.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution prohibits entry into homes without the owner's permission, except when police present a warrant in accordance with the law; however, there were credible reports that security forces sometimes failed to obtain warrants. Only police officers and public prosecutors carrying a warrant are permitted entry into homes. Officers' actions in searching premises are subject to review, and officers are subject to disciplinary action if their actions are judged to be irresponsible. Local custom and practice place a high value on privacy, and entry into private homes without owners' permission was rare. A female police officer is required to be present during the search of a private home when male family members are absent.

Authorities do not commonly screen private correspondence; however, there have been reports of censorship of incoming international mail. The government-owned Internet provider, Etisalat, regularly blocks internet sites determined to be "objectionable" (see section 2.a.).

Family matters for Muslims are governed by Shari'a and the local Shari'a courts. Muslim women are forbidden to marry non-Muslims. In such cases, both parties can be arrested and tried. However, Muslim men are free to marry all women "of the book," i.e., Muslim, Christian, and Jewish women (see section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Article 30 of the constitution provides for freedom of speech and of the press; however, the government restricted these rights in practice. The UAE Print and Publication Law prohibits, under penalty of imprisonment, criticism of the government, ruling families, and friendly governments, as well as other statements that threaten social stability; however, the law was rarely enforced because journalists practiced self-censorship. The government tries complaints against journalists under the Penal Code.

Two of the country's newspapers, *al-Ittihad* and *al-Bayan*, were government-owned. The country's largest Arabic language newspaper, *al-Khaleej*, was privately owned but received government subsidies. The country's largest English language newspaper, *Gulf News*, was also privately owned. Newspapers often relied on news agencies for material. The government-owned Emirates News Agency regularly provided material printed verbatim from many newspapers and from government officials.

By law, the Ministry of Information licenses all publications. The ministry is informed of the appointment of editors and is responsible for issuing editors their press credentials. The Press and Publications Law governs press content and contains a list of proscribed subjects. Government officials reportedly warned journalists when they published material deemed politically or culturally sensitive. According to Ministry of Information and Dubai Police officials, journalists were not given specific publishing instructions. Self-censorship was the practice, with the ministry relying on editors' and journalists' discretion to publish or refrain from publishing material which could cause them problems.

A 2002 de facto ban prohibiting 10 prominent intellectuals from publishing opinion pieces in the country's Arabic and English language media continued. The ban was lifted in 2004 for at least two of the individuals, and they have since returned to writing and teaching. There was one new report of an academic that was banned from teaching in the university, although no reason was initially given and no further details were available.

While self-censorship affected what was reported locally, foreign journalists and news organizations operating out of the Dubai Media Free Zone reported no restrictions on the content of print and broadcast material produced for use outside the country. Broadcast content within the Dubai Media Free Zone is regulated by the Free Zone Authority for Technology and Media. There were reports that some broadcast channels in the Media Free Zone broadcast songs and cellular short message service (SMS) messages described as "indecent" by government officials, which were accessed by the local audience. In response, on April 16, Dubai Police and the Juvenile Welfare Association launched a five-year campaign to spread the message that indecent content would not be tolerated within the Media Free Zone.

Except for those located in Dubai's Media Free Zone, most television and radio stations were government-owned and conformed to unpublished government reporting guidelines. Satellite receiving dishes were widespread and provided access to international broadcasts without apparent censorship. The main pan-Arab dailies were not censored and were distributed on the day of publication. Censors at the Ministry of Information and Culture reviewed all imported media and banned or censored before distribution material considered pornographic, excessively violent, derogatory to Islam, supportive of certain Israeli government positions, unduly critical of friendly countries, or critical of the government or ruling families.

On June 15, Basma al-Jandaly, a local newspaper reporter, was arrested at the Dubai airport because of an article she had written in February about a man who had stalked and slashed women with a knife in Sharjah Emirate. The warrant issued by Sharjah police contended that her article in Dubai's leading English daily, *Gulf News*, may have helped the attacker escape by alerting him to the investigation. The interior minister immediately intervened on the reporter's behalf and ordered her released the following day. The minister also issued a subsequent directive that all police departments must establish standard operating procedures for dealing with complaints against the press that will allow journalists to do their jobs without undo interference.

On July 26, two journalists were found guilty of defamation and libel for publishing opinion pieces in *al-Ittihad* newspaper in 2003, and were each fined \$5,465 (20,000 dirhams). According to press reports, one of the journalists criticized a decision by the Ministry of Education to alter approved curriculums and cancel some subjects at several private schools midway through the academic year, while the other journalist was tried as an accomplice because he was the managing editor.

Internet access was provided through the state-owned monopoly Etisalat. A proxy server, intended to block material regarded as pornographic, violent, morally offensive, or anti-governmental, as well as sites promoting radical Islamic ideologies, in practice blocked broad categories of sites including many that did not meet the intended criteria, including [www.newyorktimes.com](http://www.newyorktimes.com) and [www.cnn.com](http://www.cnn.com). The Etisalat proxy server provided access to America OnLine email but blocked other features that enable users to chat online. Etisalat denied having the authority to block any site, and referred all complaints and suggestions to the Ministry of Information. Etisalat occasionally solicited suggestions from users regarding "objectionable" sites, and at times the government responded by blocking some politically oriented sites, which were sometimes later unblocked. Etisalat also blocked commercial "voice-chat" and Voice over Internet Protocol (VOIP) Web sites on the Internet. The proxy server did not affect Internet access in Dubai's Internet City and Media City.

Academic materials destined for schools were routinely censored. Students were banned from reading texts featuring sexuality or pictures of the human body.

*b. Freedom of Peaceful Assembly and Association.*—Article 33 of the constitution provides for freedom of assembly and association. Organized public gatherings require a government permit. No permits were given for organized public gatherings for political purposes. In practice, the government did not regularly interfere with informal gatherings held without a government permit in public places, unless there were complaints.

*Freedom of Assembly.*—During the year, there were approximately 20 widely publicized, organized gatherings of workers complaining of unpaid wages and unsuitable working conditions before the Ministry of Labor and Social Affairs building. These gatherings occurred without prior government permission but also without government interference (see section 6).

Citizens normally confined their political discussions to the frequent gatherings, or *majlises*, held in private homes. There were many citizen associations subsidized by the government, organized for economic, religious, labor, social, cultural, athletic, and other purposes, but not for political purposes.

*Freedom of Association.*—There are no political organizations, political parties, independent human rights groups, or trade unions (see sections 3 and 6.a.). All non-governmental organizations (NGOs) are required to register with the Ministry of Labor and Social Affairs, after which they may receive subsidies from the government based on the membership size. Approximately 100 domestic NGOs were registered with the ministry. However, despite the requirement, more than 20 unregistered local NGOs focused on non-political topics, operate with little or no government interference. The Human Rights Committee of the Jurists Association, a government-subsidized association of lawyers and judicial personnel, focused on local and regional human rights issues. The percentage of citizen membership in NGOs varied widely. All private associations, including children's clubs, charitable groups, and hobby associations, required approval and licensing by local authorities, although this requirement was enforced loosely in some emirates (see section 4).

Private associations must follow the government's censorship guidelines and receive prior government approval before publishing any material. Participation by NGO members in any event outside the country is subsidized and directed. Participants must obtain government permission before attending such events, even if they are not speakers.

*c. Freedom of Religion.*—The constitution provides for freedom of religion in accordance with established customs, although these customs restrict this right in practice. The constitution declares that Islam is the official religion of all seven



emirates. According to the country's first census in 2001, 76 percent of the 4.04 million total population was Muslim, 9 percent was Christian, and 15 percent belonged to other religions. There is a small resident Jewish population of unknown size; there are no synagogues. There were no reports of anti-Semitic acts or statements.

The government controlled all Sunni and Shi'a mosques, prohibited the proselytizing of Muslims, and restricted freedom of assembly and association, thereby limiting the ability of religious groups without dedicated religious buildings to worship and conduct business. The government funded or subsidized approximately 95 percent of Sunni mosques and employed all Sunni imams; approximately 5 percent of Sunni mosques were entirely private, and several prominent mosques have large private endowments. A committee of the Ministry of Justice, Islamic Affairs, and Endowments drafts and distributes all Friday sermons to Sunni and Shi'a imams. The government monitors all sermons for political content. During the year, the ministry distributed Friday sermons that condemned terrorism and extremism and encouraged moderation in Islam. The effort was covered widely in print and broadcast media.

The government supports a moderate interpretation of Islam; however, as the state religion, Islam is favored over other religions and conversion to Islam is viewed favorably. All Sunni imams are employees of either individual emirate departments or of the federal Ministry of Justice, Islamic Affairs, and Endowments. Dubai's department of Islamic affairs and endowments has approval authority over preachers in that emirate's private mosques.

The Shi'a minority, concentrated in the northern emirates, was free to worship and maintain its own mosques. All Shi'a mosques were considered private and received no funds from the government. The government did not appoint sheikhs for Shi'a mosques, but it did monitor all sermons closely. Shi'a Muslims in Dubai can pursue Shi'a family law cases through a special Shi'a council rather than the Shari'a courts.

Several non-Muslim groups own houses of worship where they can practice their religion freely, although the local ruler owns the land. Groups that did not have their own buildings were limited in their ability to assemble for worship and required to use the facilities of other religious organizations or worship in private homes. The police or other security forces did not interfere with these gatherings.

Individual emirates exercised considerable autonomy in religious matters. There did not appear to be a formalized method of granting official status to religious groups. Facilities for Christian congregations were far greater in number and size than those for other non-Muslim groups, which significantly outnumber the Christian population. There are 24 Christian churches in the country, and Christian primary and secondary schools operate in four emirates. There is one temple for both Sikhs and Hindus located in Dubai. There are no Buddhist temples; however, Buddhists, along with Hindus and Sikhs in cities without temples, conducted religious ceremonies in private homes without interference. There are only two cremation facilities and associated cemeteries for the large Hindu community, one in Dubai and the other in Abu Dhabi. Official permission must be obtained to use the facilities in every instance, which poses a hardship for the large Hindu community. In October, the government refused to allow the Hindu community in Abu Dhabi to cremate the body of an Indian construction worker.

The government prohibits Muslims from converting to other religions. Although non-Muslims in the country are free to practice their religion, they are subject to criminal prosecution, imprisonment, and deportation if found proselytizing or distributing religious literature to Muslims. There are no specific laws against missionary activities, and there were no reports of authorities revoking residence permits of persons suspected of such activities. On February 21, two foreign women on a mission trip with the Tom Cox World Ministries were arrested by Dubai Police while passing out Bibles and religious CDs during the Dubai Shopping Festival. They were charged with possession and distribution of religious materials (26 CDs and 19 Bibles), and being an "affront to Islam." Dubai Police released the two women within hours of their arrest, but confiscated their passports. On March 3, both women departed the country. Missionaries have performed humanitarian work since before the country's independence in 1971. There is no restriction on proselytizing non-Muslims.

The country's sole Internet service provider, Etisalat, blocked websites containing religious information. These sites included information on the Baha'i Faith, Judaism, negative critiques of Islam, and testimonies of former Muslims who had converted to Christianity. For a more detailed discussion, see the *2005 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement or relocation within the country, and the government generally respected these rights in practice.

Unrestricted foreign travel and emigration is permitted for male citizens, except those involved in legal disputes under adjudication. Custom dictates that a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country by taking custody of their passports (see section 5). However, there was no enforcement of this custom at exit points unless there was a court order barring an individual from traveling. All citizens have the right to return.

There was a small population of “stateless” residents who either were without citizenship or had no proof of citizenship for any country. Many such persons have lived in the country for more than one generation. Many stateless residents originally were from Iran and South Asia. Other stateless residents included Bedouins and their descendants who were unable to prove they originated in the country.

There is no formal procedure for naturalization, although foreign women may receive citizenship through marriage to a citizen after 10 years, and anyone may receive a passport by presidential fiat. Since naturalized citizens are not of the country’s original tribal groups, their passports and citizenship status may be revoked for criminal or politically provocative actions. However, such revocations were rare, and there were no reports of such occurrences during the year.

Children born to male citizens acquire citizenship at birth. The same benefit does not extend to children of female citizens married to noncitizens; however, female citizens under these circumstances can apply to the Ministry of Presidential Affairs for citizenship for their children. Passports are generally issued and citizenship is generally received even though there is no provision in the law.

In 2003, the government banned the widespread practice of employers forcing foreign national employees to surrender their passports as a condition of employment; however, this ban was generally not enforced. This practice prevented international travel or repatriation by foreign national employees without their employers’ consent, and it especially affected employees in the resolution of employment disputes. Citizens were not restricted in seeking or changing employment. However, foreign nationals in most occupations are not permitted to change employers without first leaving the country for six months, unless the former employer agrees to waive the requirement (see section 6.e.).

The constitution prohibits forced exile, and there were no reported cases during the year.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. The government did not provide protection against *refoulement*, or the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum.

Refugees generally were required to petition for settlement in third countries. In the past, the government detained persons seeking refugee status, particularly non-Arabs, while they awaited resettlement in third countries.

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

The law does not provide citizens with the right to change their government peacefully, or to freely change the laws that govern them. There are no democratic elections or institutions, and citizens do not have the right to form political parties. Federal executive and legislative power is in the hands of the Federal Supreme Council, a body composed of the hereditary rulers of the seven emirates that elects from its members the country’s president and vice president. Decisions at the federal level generally are made by consensus among the rulers, their families, and other leading families. The seven emirate rulers, together with their extended families and those persons and families to whom they are allied by historical ties, marriage, or common interests, hold political and economic power in their respective emirates.

*Elections and Political Participation.*—In November 2004, the seven-member Federal Supreme Council elected Sheikh Khalifa bin Zayed al-Nahyan as head of state for a five-year term.

The rulers of the seven semi-autonomous emirates appoint the Federal National Council (FNC), a 40-person advisory federal consultative body. The members are drawn from each emirate in proportion to the population. The emirates of Abu Dhabi and Dubai each have eight seats; the emirates of Sharjah and Ras Al Khaimah have six; and the smaller emirates of Ajman, Umm Al Qaiwain, and Fujairah each have four. Each FNC member serves a term of two years. The FNC

has no legislative authority, but generally reviews all federal draft laws and decrees before they are officially adopted by the Federal Supreme Council; the FNC does not have the power to draft or reject legislation. It can, however, send legislation back to the cabinet for amendment. The FNC also has the authority to question any government minister. The FNC's plenary sessions were open to the public.

On December 1, President Khalifa announced that the FNC would be partially elected for the first time in its history. On December 3, the Supreme Ruling Council endorsed this initiative. According to the announcement, indirect elections will be held for half of the FNC, with the other half being appointed. The timetable for the elections was not yet known, although government officials quoted in the press have indicated that the process would start early in 2006.

The ruling families, in consultation with other prominent tribal figures, choose new emirate rulers. By tradition, rulers and ruling families are presumed to have the right to rule, with their incumbency ultimately depending on the quality of their leadership and their responsiveness to their subjects' needs. Emirate rulers were accessible, in varying degrees, to citizens with a problem or a request.

There were very few women in senior government or business positions. There were no female members of the FNC or the judiciary. The Federal Judicial Authority law prohibits women from working as judges or public prosecutors. During the year women underwent public prosecution training, and in August three women were appointed to senior administrative positions in the Dubai Public Prosecutor's Office, but not as prosecutors.

Other women in senior federal government positions included the Minister of Economy and Planning, who was the first woman to serve on the federal Council of Ministers following her appointment in November 2004; an undersecretary in the Ministry of Labor and Social Affairs; and two assistant undersecretaries for education administration and curriculum development in the Ministry of Education.

During the year, there were 32 women serving as diplomats in the Ministry of Foreign Affairs, comprising approximately 10 percent of the diplomatic corps. Although there was no law prohibiting women from being diplomats, no women served as diplomats prior to 2001.

In Sharjah, 7 women served on the 40-seat Consultative Council and 2 women served as directors of local departments. In the other emirates there were no women in non-federal senior government positions.

Although the small Shi'a minority enjoyed commercial success, there are no Shi'a in top positions in the federal government.

*Government Corruption and Transparency.*—There were reports of government corruption at the administrative level. An Abu Dhabi Police study published in February cited a problem of "rampant" bribery, nepotism, embezzlement, and abuse of power throughout local administrations. Subsequently, special anti-corruption sections were established to investigate and prosecute violators. In December the Penal Code was amended to increase penalties for corruption-related offenses, including mandatory prison time (minimum of one year) for any government official accepting a bribe, up to five years for attempting to bribe an official, and various prison terms for embezzlement. These measures were taken by government officials in response to the problem of corruption.

The law provides for public access to government information, but this provision was followed only selectively. Requests for access were usually not denied, but simply went unanswered. Draft legislation was not available to the public, nor was there any period for public comment on proposed legislation.

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

There were no independent human rights organizations in the country. The only local human rights organization was the government-subsidized Jurists' Association Human Rights Committee, which focused on human rights education and conducted seminars and symposia subject to government approval (see section 2.b.).

Domestic NGOs were charitable, social, and educational in their purposes. They were required to register with the government and were subject to many regulations and restrictions. In practice, these restrictions, if violated, were often overlooked.

In July 2004, a group of citizens petitioned the Ministry of Labor and Social Affairs to approve the registration of an independent human rights NGO, the UAE Human Rights Society. Although the ministry, by its own regulation, is required to act on all such applications within 30 days of receipt, it had not acted by the end of the year. The ministry also had not acted on an application filed in April by a second group, the Emirates Association for Human Rights, seeking human rights NGO status.

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

Article 25 of the constitution provides for equality before the law without regard to race, nationality, or social status; however, there was institutional and cultural discrimination based on sex and nationality. Muslim women are forbidden to marry non-Muslims (see section 1.f.). Custom dictates that a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country. All male citizens can pass citizenship to their children at birth, whereas female citizens married to noncitizens do not automatically pass citizenship to their children (see section 2.d.). Expatriate residents infected with HIV are denied all healthcare benefits, quarantined, and deported.

*Women.*—There is broad legal and societal discrimination against women. Shari'a, or Islamic law, governs the personal status of women, but civil law governs their activities in the civic and commercial sphere. The government was generally not effective in enforcing women's rights and protecting women from abuse.

Domestic abuse against women was a pervasive problem, with one study in February indicating that as many as 66 percent of all women permanently residing in the UAE had been subjected to domestic abuse. Almost 34 percent of respondents age 18 to 30 claimed to have been abused by a family member, and over 50 percent of respondents said that they witnessed their mothers being abused in the home. Abuse and rape are criminal offenses, and offenders are prosecuted and penalized. There were press reports of spousal abuse, including a case reported in July in which a man was convicted for beating his wife to death, although he was only found guilty of involuntary manslaughter because the court found that he was within his rights to beat her as a form of discipline. Forcible rape is punishable by death under the Penal Code, but is often not recognized in Shari'a courts. Assault without intent to kill is punishable by 10 years in prison, seven years if it only results in disability, and one year if only resulting in temporary injury.

The law protects women from verbal abuse and harassment from men outside the family; however, male guardians within the family have a positive legal right, in the Penal Code, to discipline women and children family members at their discretion, including use of physical violence. Violators outside of the immediate family are subject to criminal action, including up to one year in prison, a fine of not more than \$2,750 (10,000 dirhams) and deportation if not a citizen. During the year, the press reported incidents of men being arrested and prosecuted for harassing women in public. The Penal Code prohibits "disgracing or dishonoring" a person in public, punishable by a minimum of one year in prison, and 15 years if the person is under the age of 14. Committing an "infamous" act against the rules of decency results in six months in prison, and dishonoring a woman by word or deed on a public roadway results in up to one year in prison and a \$2,700 (10,000 dirhams) fine.

Police units are stationed in major public hospitals so that victims of abuse may file complaints, which fall under the jurisdiction of the Shari'a courts. In addition, attending physicians may call police to interview suspected victims of abuse. Social workers and counselors, usually female, also maintained offices in public hospitals and police stations. However, women sometimes were reluctant to file formal charges for social, cultural, and economic reasons.

All Dubai police departments, and many police departments in other emirates, have human rights and social support offices that provide assistance to women and children who are victims of abuse. When abuse is reported to local police, authorities may take action to protect the complainant; however, the government was generally not effective in protecting women from abuse. There were several reports that police authorities refused to protect women and instead encouraged them to return home. In some cases the authorities contacted the allegedly abusive husbands to transport their wives home.

In early February, diplomatic representatives were refused entry to the Dubai Immigration Detention Center by the deputy director of the center to talk to with potential sex trafficking victims awaiting deportation.

Identifying victims relies almost exclusively on the willingness of a victim to take the initiative in filing a complaint against a trafficker. The government has not developed an effective method to screen and identify real or potential trafficking victims at ports of entry or after arrests, unless they come forward on their own. The government grouped trafficking victims with other human rights cases. Other than former camel jockeys, the government did not know how many trafficking victims it assisted during the year. The government did keep records of the number of persons arrested and prosecuted for trafficking.

Some local and foreign employers physically and sexually abused female domestic servants (see section 6.e.).

No law prohibits female genital mutilation (FGM), which was primarily practiced among Somali, Omani, and Sudanese expatriates. The Ministry of Health prohibits hospitals and clinics from performing FGM; however, some private clinics in the northern emirates and rural areas continued to carry out the procedure.

Prostitution is illegal; however, it has become an increasing problem in recent years, particularly in Dubai. Substantial numbers of women reportedly arrived regularly from the states of the former Soviet Union, Africa, South Asia, East Asia, Eastern Europe, and other states of the Middle East, for temporary stays, during which they engaged in prostitution and other activities connected to organized crime. Although there was credible evidence that many prostitutes entered the country willingly for economic reasons, others were trafficked into the country (see section 5, Trafficking).

While prostitution was widely acknowledged to exist, the government did not address the issue publicly because of societal sensitivities. However, during the year, there continued to be press reports highlighting the problems of prostitution and human trafficking.

In addition to increased policing and tightened immigration procedures, authorities also restricted the number of visas issued to single young women from certain countries of concern; however, problems continued with more facile access at airports in the northern emirates and with airline tourism companies reportedly continuing to obtain tourist visas for prostitutes.

The government's interpretation of Shari'a is applied in personal status cases and family law. The law permits men to have more than one wife, but not more than four at any time. When a woman marries, her separate property (including her dowry, which is set by presidential decision at a maximum of approximately \$13,700 (50,000 dirhams) and the income of her separate property remain under her control and are not commingled with the separate property of her husband. However, there were several cases during the year where a woman's dowry exceeded this maximum amount, ostensibly to make it far more difficult for a woman to pay it back should there be a divorce. During the marriage, the husband is legally obliged to provide a marital home and necessities for his wife and children. In the event of divorce, a woman takes her separate property, any amount she receives in a property settlement with her husband, plus any allowance granted for her and her children's maintenance.

Laws of inheritance according to the government's interpretation of Shari'a apply equally to men and women, although laws of distribution may differ. For example, women normally inherit less than men; a brother inherits double what the sister inherits when a parent dies.

Divorce is permissible, although often very difficult for a woman to obtain. A woman may be granted a divorce if she can prove that her husband has inflicted physical or moral harm upon her. A woman also may sue for divorce if her husband has abandoned her for a minimum of three months, or if he has not maintained her upkeep or that of their children.

Divorced women normally receive custody of female children until the children reach the age of maturity or marry. Divorced women are normally granted custody of male children until the age of 13. If the court deems the mother to be unfit, custody normally reverts to the next able female relative on the mother's side. A woman who remarries may forfeit her right to the custody of children from a previous marriage. In July, the cabinet approved a Personal Status Law, which enables women to obtain a *khul'* divorce, or divorce by petitioning the Shari'a court, paying compensation, or returning their dowry to their husbands. The law also affects child custody guidelines, giving divorced women custody of female children only until the age of 13 and male children only until the age of 11.

Fornication is a crime. The government may imprison and deport non-citizen women if they bear children out of wedlock. In the event that a court sentences a woman to prison for such an offense, local authorities, at the request of the prisoner, may hold the newborn children in a special area within the prison or place them with a relative. In rare cases, children are held in other facilities until the mother is released from prison.

There are no legal restrictions on the travel of women. However, by custom and tradition, a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country by taking possession of their passports (see section 2.d.).

There are no legal prohibitions against women owning their own businesses. Female citizens working as doctors, architects, and lawyers typically did not face restrictions on licensing their own businesses; noncitizens of either gender may not license a business. The Abu Dhabi Chamber of Commerce, the UAE Businesswomen's Council, and the GWU regularly conducted programs to encourage small

business entrepreneurship by women. Three women members of the Dubai Chamber of Commerce served on the board of directors.

Women who worked outside the home sometimes did not receive equal benefits. Women also reportedly faced discrimination in promotion.

Public sector employees may receive as much as 6 months' maternity leave; however, citizen teachers receive only 45 days' maternity leave, with a guaranteed position after maternity leave.

Opportunities for women grew in government service, education, private business, and health services. According to Ministry of Planning, female citizens constituted approximately 26 percent of the national workforce, an 11 percent rise over the past 10 years. The government publicly encouraged female citizens to join the workforce and ensured public sector employment for all that applied. According to government statistics, women comprised approximately 42 percent of all employees in education, 34 percent in the health sector, 20 percent in social affairs, 28 percent of all civil servants, and 57 percent of citizens working in banking and financial services.

Women constituted approximately three-fourths of all university students. Coeducation is prohibited in public schools and universities except at the UAE University Executive MBA Program. Several private universities and institutions are coeducational.

Government-sponsored women's centers provided adult education and technical training courses. Women were actively recruited to work as police officers in airports, immigration offices, and in women's prisons. The Dubai Police College also recruited women. The armed forces continued to enlist women, and their numbers are increasing yearly. In January, the Army promoted a woman to the rank of Brigadier General Medical Corps Physician, the first woman in the military to reach that rank.

Neither the labor law nor the civil service law, which covers labor matters in the public sector, prohibits the employment of women. A man has no right under Shari'a to ban his wife from working if she was employed at the time of their marriage; however, some government administrations do not employ married women without their husbands' written consent.

*Children.*—The government was committed to children's rights and welfare, and expended resources on the welfare of citizen children; however, noncitizen children received fewer benefits.

All children received free health care and all citizen children also receive free public education through the university level. Noncitizen resident children were not permitted to enroll in public schools unless they lived in rural areas that lacked private schools. Many foreign workers in private sector employment received education allowances as part of their salary packages. For those who did not receive the extra salary benefit, the government provided an annual subsidy of approximately \$1,600 (6,000 dirhams) per family to its noncitizen employees for private school tuition.

Education is compulsory through the ninth grade. Citizen children are required to attend gender-segregated schools through the sixth grade, the last grade of primary education, when children can be as young as 10 or 11 years old. However, compulsory education was not enforced, and some children did not attend school. For the 2004–05 academic year, the Ministry of Education reported student dropout rates as 9.9 percent of the 143,301 primary level students (grades 1 to 5); 8.3 percent of the 148,563 middle school students (grades 6 to 9); and 9.3 percent of the 102,903 students at the secondary level (grades 10 to 12).

Housing benefits were also routinely granted to citizens with children. Some citizens opted for available government land grants and interest-free loans to build their homes. Citizens employed by the government were also eligible to receive higher salaries to support their children who were under the age of 18, were unmarried, or had disabilities. The government, through its Marriage Fund, encouraged citizens to marry fellow citizens by providing significant funding to subsidize dowries and to offset customarily high wedding expenses. The media regularly published articles encouraging citizens to have large families.

Child abuse, except in cases of children trafficked from abroad, was not prevalent. Trafficking of young, noncitizen boys employed as camel jockeys continued to be a serious problem, with the last known case of a child being used as a jockey occurring on March 30 (see section 5, Trafficking).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, although child smuggling, forced prostitution, kidnapping, fornication, and pornography are crimes. In practice, trafficking in women and girls used as prostitutes and domestic servants and men used as servants, laborers, and unskilled workers continued to be serious problems. Until March, very young boys used as camel jockeys also continued to be a serious problem.

However, the government has made steady progress in combating the problem of trafficking in regard to women in the sex trade and children in the camel racing industry. Prior to May 31, before the end of the two-month amnesty and before the promulgation of the new federal law on July 5, no one was prosecuted for trafficking in and/or abusing underage boys as camel jockeys. Between June and year's end, however, at least 17 persons were convicted under existing penal statutes of having trafficked or used young boys as camel jockeys prior to the promulgation of the federal law.

The government made significant progress toward eliminating the practice of trafficking in young foreign boys as camel jockeys, which until March had been a serious problem for many years. On July 5, President Khalifa promulgated a federal law that prohibits persons below age 18 from participating in camel races and subjects violators to imprisonment and financial penalties. The government also worked with UNICEF, source country embassies, and NGOs to rescue, rehabilitate, and repatriate approximately 1,034 children who had worked as camel jockeys. By year's end, an additional 39 children were in the remaining rehabilitation shelter awaiting repatriation.

In October 2004, an in-depth documentary by HBO's "Real Sports" program detailed the use of young boys as camel jockeys who were subjected to physical abuse and extremely harsh living and working conditions that, at times, led to serious injuries and death. All of these boys were foreign nationals who had been brought explicitly to work in camel racing. Most of the boys were from Pakistan, Sudan, Bangladesh, or Mauritania.

The trafficking in and abuse of underage camel jockeys persisted during the first several months of the year. In early February, at the Nad al-Sheba racetrack in Dubai, diplomatic representatives witnessed dozens of young foreign boys—some only three years old—still being used to train and race camels.

End-of-season camel races on March 9 in Dubai and on March 30 in Abu Dhabi featured underage camel jockeys. Internet reports stated that the race at al-Wathba racetrack in Abu Dhabi was attended by sheikhs and that government security personnel cordoned off the racetrack to prevent foreigners from attending.

Until December 2004, camel racing was regulated by the Camel Racing Federation, composed of wealthy and influential owners. Since that time, camel racing has been regulated by the Ministry of Interior. On February 7, diplomatic representatives monitoring the use of children in camel racing, were refused entry into a camel race at Nad Al Sheba racetrack in Dubai on the orders of a senior Camel Racing Federation official.

In February, the Minister of the Interior created a Special Committee on Camel Racing and a 70-person Anti-Trafficking in Persons (TIP) Unit, both within the Ministry of Interior, to oversee government efforts to combat trafficking of young boys as camel jockeys.

On July 5, President Khalifa promulgated a federal law, effective immediately, that prohibits persons below age 18 of either sex from participating in camel racing, and subjects those involved with using underage persons for this purpose to jail sentences of up to 3 years and/or a fine not less than \$13,500 (50,000 dirhams). Penalties are doubled for repeat offenders. The Ministry of Labor and Social Affairs is empowered to enforce the law in coordination with other concerned agencies, including the Ministry of Interior. The federal law replaced a 2002 presidential decree that had "banned" the use of underage foreign camel jockeys. In practice the decree was unenforceable and largely ignored. No cases were prosecuted under the 2002 ban.

To supplement the law, the government tightened immigration controls by requiring children from the seven primary source-countries to enter the country on individual passports, not family passports. Federal immigration and residency officers at Dubai International Airport began enforcing the new passport rule, despite a six-month amnesty beginning on March 31.

In September, the Ministry of Interior issued a decision requiring camel farm owners to obtain identification cards for all of their jockeys before they can participate in camel races. Under this provision all camel jockeys are required to undergo medical testing to prove their age and fitness level before ID cards are issued. Jockeys must present their ID card to race officials prior to any race and display them while at racetracks. The government also mandated DNA testing for boys with questionable family ties, or those suspected to be trafficking victims, prior to a card being issued. According to UNICEF, these various measures have been seen in practice and seemed to be working.

The government worked with UNICEF, source country embassies and consulates, and NGOs to rescue, care for, and repatriate many boys who had been trafficked in to work as camel jockeys. On May 8, the Ministry of Interior signed a project

agreement with UNICEF for screening, identifying, rescuing, protecting, rehabilitating, and reintegrating children in the country working in the camel jockey industry. Under the agreement, the rescued child jockeys will receive aid for their health, education, job, and other rehabilitation needs for 2 years.

By year's end, the government reported that 1,034 boys had been repatriated to their home countries and 39 additional boys remained at the Bani Yas Social Support Center located outside Abu Dhabi, awaiting repatriation. During the year, the government provided \$2 million for care and repatriation of all the boys, which included financing of social services and resettlement sites in Pakistan, Bangladesh, and India to facilitate the children's returns to their home countries.

Of the 1,034 boys repatriated, approximately 548 were from Pakistan, 311 from Bangladesh, 151 from Sudan, 17 from Mauritania, and 7 from Eritrea. There were no government statistics available to estimate how many underage foreign boys originally trafficked into the country to work as camel jockeys still remained in the country.

Since June 2, the government reported that there have been 17 convictions for child trafficking in relation to camel jockeying, with an additional 31 persons under investigation. Approximately half of the 48 defendants in these cases were citizens, with the remainder from Pakistan (16), Sudan (9), Bangladesh (4), Mauritania (2), and Saudi Arabia (1). Sentences for the convicted ranged from six months' to three years' imprisonment plus deportation. Because these convictions and prosecutions were for crimes committed prior to the promulgation of the new camel jockey law on July 5, defendants were prosecuted primarily under articles of the Penal Code addressing juvenile labor and child welfare, forced labor, trafficking for slavery, and kidnapping. There is no record of anyone being convicted under the new camel jockey law.

During the year, there were a number of media reports of trafficking in women and girls into the country, especially to Dubai, for sexual exploitation. Observers believed that trafficking activity was conducted with the complicity of some of the women's citizen sponsors and by noncitizen traffickers.

Law enforcement, particularly in Dubai and Abu Dhabi, investigated reports of trafficking in women for prostitution. In 2004 and during the year, Dubai police closed 39 hotels in Dubai and several massage parlors and night clubs suspected of exploiting women for prostitution. Unlike in previous years, instead of summarily deporting women arrested for prostitution, the Human Rights Care Department housed in hotels all women who were victims of and could provide evidence about trafficking, until they could testify in trials against the traffickers. Victims who were unable to provide evidence were also assisted until they had acquired travel documents to return home.

During the year, the government convicted at least 12 persons, including at least 7 foreigners, of offenses related to trafficking in and exploiting women and sentenced them to prison terms of between 2 and 5 years (and in one case 90 lashes) and deportation.

The police in Abu Dhabi and Dubai, and the Ministries of Interior, Health, and Justice, all held anti-trafficking training courses throughout the year for police, prosecutors, and judges.

The government also provided assistance to trafficking victims. Counseling services were available in public hospitals and jails. The Dubai police also sponsored a Crime Victims' Assistance Program, and assigned program coordinators in police stations throughout the city.

*Persons with Disabilities.*—There is no federal legislation requiring accessibility for persons with disabilities; however, most public buildings provided access. There were no reported incidents of discrimination against persons with disabilities in employment, education, or in the provision of other state services.

The Ministry of Labor and Social Affairs operated 5 federal rehabilitation centers, which were open only to citizens. The Ministry of Interior also operated a training and employment center in Al Ain, and implemented a program to educate 75 students with mental disabilities. There were reported inadequacies in both public and private centers, including unqualified teachers and supervisors, a lack of healthcare, and unreasonably high costs of private centers.

One percent of all jobs in the federal government are reserved for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Societal discrimination against noncitizens, while not legally sanctioned, was prevalent and occurred in most areas of daily life, including employment, housing, social interaction, and healthcare. National origin played an important role in employment, immigration, and security policies, as well as cultural attitudes towards noncitizens, who comprised approximately 85 percent



of the national population. More than 50 percent of foreign workers were estimated to have come from the Indian subcontinent.

Noncitizens were denied access to many free or reduced-cost services provided by the government to citizens, including child and adult education, health care, housing, and social and recreational club memberships. While citizens who contract HIV are afforded full, continuous, and free health care, noncitizen migrant workers who contract the same disease are denied health care and deported.

*Other Societal Abuses and Discrimination.*—Although both civil law and Shari'a criminalize homosexual activity, in general, reports of discrimination against individuals based on sexual orientation were not widespread. However, on November 23, Abu Dhabi Police arrested 26 allegedly homosexual men—UAE nationals, Arabs, and Asians—who had gathered at an Abu Dhabi hotel for a party. Government officials reportedly said that the men were transferred to the ministry's Social Support Center and would "be given the necessary treatment, from male hormone injections to psychological therapies" after their trial. The Ministry of Interior later disavowed this statement. At year's end the case was not yet resolved.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The labor law, dating from 1980, does not specifically entitle or prohibit workers from forming or joining unions, and none existed; however, if they existed, unions would be subject to general restrictions on the right of association. Professional organizations do exist and collective work dispute resolution is explicitly permitted (see section 6.b.). International affiliation by professional associations must be approved by the government. The labor law does not cover the 2.1 million domestic servants, government workers, or agricultural workers.

Since 1995, the country has been suspended from the U.S. Overseas Private Investment Corporation (OPIC) insurance programs because of the government's non-compliance with internationally recognized worker rights standards.

*b. The Right to Organize and Bargain Collectively.*—The labor law does not explicitly prohibit strikes or collective bargaining units for private sector employees, nor does it state explicitly that they are permitted; however, the law does provide for collective work dispute resolution, which took place. Professional associations, organized by profession (e.g., teachers, jurists, engineers, medical professionals, and social workers), are the only workers' associations that currently exist in the country. Most members of these associations are citizens. Although foreign workers may belong to these associations, they do not have voting rights and cannot serve on the boards of these organizations. Twenty persons from the same profession can request that the Ministry of Labor (MOL) permit an association to be formed. Each society holds biennial elections for its board, supervised by the ministry of labor. Officers must be citizens. Each association has a constitution, written by its members and approved by the MOL. Members pay annual dues of approximately \$33. The government granted some professional associations limited freedom to raise work-related concerns, to lobby the government for redress, and to file grievances with the government.

The labor law does not address the right to strike, but in practice the government has not retaliated against work stoppages by protesting laborers. MOL officials have said that the law does not forbid strikes, and if laborers feel they are denied their rights, they can stop working. In that case, such workers would be subject to deportation for breach of contract. There were no reports of groups of workers being deported for striking; however, at least one worker was deported for continuing to incite his coworkers to strike after the MOL had begun to take action on the case. Other employees who took part in the strike were not deported.

In practice, there were numerous strikes by private sector employees. For example, in March over 2,000 workers in Dubai marched toward the Dubai Labor Office to protest unpaid wages, but police turned them away. This was reportedly the seventh time in eight months they had approached the MOL about unpaid wages. Another dispute involved 73 Moroccans working for an interior decorator. The workers filed a complaint with the MOL for two months unpaid wages and for delayed issuance of work visas. The ministry denied the claim because the group had entered the country on tourist visas. On September 19, approximately 1,000 laborers from al-Hamed Construction Company blocked a major Dubai highway to protest unpaid wages. The MOL quickly met with both labor and company representatives and ordered the company to immediately pay all back wages.

In addition, workers participated in organized and impromptu gatherings almost daily in front of the MOL in Abu Dhabi and Dubai to complain of unpaid wages and hazardous or unfair working conditions. Generally, the workers at these gatherings did not have a permit to protest, but the government did not punish any workers for doing so. The government prohibits strikes by public sector employees

on national security grounds. Almost all strikes were in response to unpaid wages, and most involved construction companies (see section 6.c.).

Domestic workers' contracts were not covered by the labor law.

The MOL distributed information to foreign workers, both directly and through their sponsoring companies' public affairs offices, outlining their rights under the labor law and how to pursue labor disputes, whether individually or collectively. The information was generally available in Arabic and English, and usually Urdu. Employees may file individual or collective employment dispute complaints in Arabic with the MOL, which serves as the mediator between the parties. If the dispute remains unresolved, the employee may file a complaint with the labor court system. The labor law gives the ministry two weeks to resolve the dispute or refer it to the courts, although in practice, it generally takes a month or more. In all cases, complaints must be filed with the ministry before they can be submitted to the court for consideration. Parties in a collective work dispute may file complaints with the MOL. During the year, the ministry settled approximately 80 percent of complaints.

If the MOL is unable to mediate a settlement within 10 business days, the complaint is to be submitted to a Conciliation Committee for mediation, which consists of the manager of the labor department, a member of the Chamber of Commerce, a member of the vocational society chosen by the workers as a dispute representative, and a nonvoting legal expert from the ministry.

Either the employee or employer can appeal the Conciliation Committee's decision to a Supreme Committee of Conciliation, whose decision, while final, is only enforceable if both parties agree to the decision. Either party can, at any time in the process, ask that their dispute be referred to the Court of First Instance in the emirate where the alleged violation occurred. If a case cannot be settled, it is then referred to the court, where labor cases were quickly adjudicated during the year and not subject to court fees. Rulings were generally in favor of the workers and are fully implementable. In practice, most cases were resolved through direct mediation, and if that failed they were sent directly to the courts without going to the Conciliation Council. When a case is delayed, the MOL grants the worker temporary permission to legally continue employment in the country.

The Ministry of Interior's Naturalization and Residency Administration mandates use of standard contracts for noncitizen domestic servants, clearly listing the salary, work requirements, and duration of employment. Domestic workers may bring work-related disputes to Conciliation Committees organized by the Ministry of Interior or to the Court of First Instance, and the Ministry of Interior settles most disputes between employers and domestic servants.

The labor law governs all private-sector employment outside the free trade zones with the exception of domestic servants. During the year approximately 2.7 million workers were covered by the labor law. The MOL estimated that there were approximately 100 thousand persons working in the free trade zones, while 2004 International Monetary Fund (IMF) estimates show that approximately 264 thousand persons worked in government services, and more than 200 thousand domestic servants. Although those working in government services were covered under a separate Civil Service law, the 200 thousand domestic servants were not covered under any labor law. Domestic servants and agricultural workers have always been considerably disadvantaged in negotiating employment contracts because the mandatory requirements contained in the labor law do not apply. They also faced considerable difficulty in obtaining assistance to resolve disputes with their employers. The law ties workers' residency permission to their sponsorship by their employer. Moreover, most employment contracts stipulate that for six months after the end of employment, the employee is forbidden from working for a "competitor," unless the former employee obtains a letter of "no objection" from the former employer. This regulation has very severely restricted foreign worker labor mobility inside the country. In August, the MOL rescinded the six-month immigration ban for workers who change sponsors without a "no objection letter"; however, the Ministry of Labor and Social Affairs still waits six months to issue a new work permit with a new sponsor unless the employee presents a letter of "no objection" from the former employer. A letter of no objection is not needed if an employee proves that the previous employer has violated his/her labor contract, such as a delay in payment.

Businesses in the free trade zones do not have to comply with municipal law since they are considered a "country within a country." In practice, however, the federal law serves as the guideline for any labor issues in the free trade zones. One difference is in paid holidays: federal law dictates a minimum of 21 days paid leave, while the free trade zone law provides for only 7 days. The MOL did not regulate the free trade zones; instead, each free trade zone maintains its own labor department to deal with workers.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor for both adults and children; however, employment agents continued to bring some foreign workers to the country to work under forced or compulsory conditions. Women were brought to the country under false promises of legitimate employment and were instead forced into prostitution (see section 5). Low-paid unskilled and semi-skilled workers were also victims of contract switching, which occurs when a worker is offered a certain position, often secretarial, but receives work as a domestic servant or other similar position after obtaining a visa and labor card. When the worker receives the visa and labor card it is to work as a domestic servant or other similar position.

The law prohibits forced or compulsory child labor. However, for many years, including the first several months of the year, hundreds of young foreign children were trafficked into the country and forced to work as camel jockeys. During the year, the government took concrete steps to eliminate this practice, including issuing a new federal law and punishing violators (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor law prohibits employment of persons under the age of 15 and has special provisions for employing those 15 to 18 years of age. The Ministry of Labor and Social Affairs is responsible for enforcing the regulations. The government does not issue work permits for foreign workers under the age of 18 years. Child labor was not tolerated, with the exception of child camel jockeys, which was prohibited after the promulgation of a federal law in July (see sections 5 and 6.c.).

*e. Acceptable Conditions of Work.*—Noncitizens comprised approximately 98 percent of the private sector workforce. According to the MOL, the country was a destination for a large number of unskilled workers, including up to 300 thousand domestic servants, most of them women from South and East Asia, and a much larger number of unskilled male workers, mostly from South Asia. These unskilled laborers actively competed for jobs in the country, and they were sometimes subject to poor working conditions. Female domestic servants sometimes faced abusive working conditions.

The government made significant progress toward eliminating the practice of trafficking in young foreign boys as camel jockeys, which until March had been a serious problem for many years (see section 5).

The standard workday is eight hours per day, and the standard workweek is six days per week; however, these standards were not strictly enforced. Domestic servants and agricultural workers were not covered by the labor law and were often obliged to work for longer periods. According to the MOL and the labor law, employees are entitled 2 days of annual leave per month after completing each of the first two 6-month periods on the job; after the first year, employees are entitled to 30 calendar days of annual leave, in addition to national holidays.

The government does not impose a minimum wage or have minimum wage guidelines, but in practice MOL officials are required to inspect all contracts covered by minimum wage, which cover about half of the work force, in order to ensure compliance with legally required benefits, allowances, and time of payments. Officials do not approve any labor contracts that stipulate substandard wages. Salaries depended on the occupation and employer and ranged from \$109 (400 dirhams) per month for domestic or agricultural workers to \$164 (600 dirhams) per month for construction workers to much higher salaries for highly skilled and white-collar employees. Compensation packages generally provided housing or housing allowances; however, low-skilled employees were often provided with substandard living conditions, including overcrowded apartments or lodging in unsafe and unhygienic "labor camps," lack of electricity, lack of potable water, and lack of adequate cooking and bathing facilities. Some low-paid workers did not receive these benefits, even if stipulated in their contracts. Local newspapers detailed numerous cases of non-payment of wages to foreign workers (see section 6b.).

Most foreign workers do not earn the minimum salary required in order to obtain residency permits for their families. The required monthly minimum salary for an accompanying family to obtain residency permits is \$1,090 (3,924 dirhams); the minimum salary requirement is \$817 (2,941 dirhams) per month when the government provides housing or an additional housing allowance to the foreign worker.

The law requires that employers provide employees with a safe work environment. Local medical experts recommended that it was inadvisable for laborers to work outdoors when the temperature exceeded 40 degrees Celsius, and that employers provide safety helmets and adjust work hours to reduce exposure to the sun. In late June, the MOL announced a new decree, effective July 1, requiring a four-hour midday break (12:30 p.m. to 4:30 p.m.) for outdoor laborers during July and August, the hottest months of the year.

Press reports indicated a “sharp drop” in cases of heat exhaustion requiring hospitalization; there were no official government statistics however. In July, the MOL began inspecting construction and outdoor worksites and identified at least 15 companies (of 80 inspected) that failed to enforce the break. These companies faced fines of \$2,700 (10,000 dirhams) for the first offense and were prohibited from importing new workers. According to the press, failure to comply with any ministry regulation results in all of a company's transactions with the ministry being halted until the company is in compliance. Workers may file complaints with the MOL if these laws are not obeyed; the ministry reported that workers did file complaints during the year.

In Dubai Municipality, 39 construction workers died during the year, an increase of 14.7 percent from 2004. The accident rate jumped 66 percent, with 175 workers injured in construction accidents. The Dubai Building Department noted that the accident rate was an absolute increase, but that when taking into account the increase in construction it was a relative decline.

The MOL received 17,360 complaints during the year. The majority of complaints concerned unpaid wages. In 2004, the media reported an estimate by unidentified municipal sources of a 61 percent increase in construction site accidents during the year, rising to 149 accidents.

On October 29, the Dubai Police created a rapid intervention force within its human rights department and opened a 24-hour hotline for labor complaints. The hotline was staffed by employees that spoke English, Arabic, Urdu, and Hindi. The press reported that since its inception, the hotline received 20–25 complaints per day. The press reported that from November to December the hotline resulted in 23,717 workers receiving over \$4 million (15 million dirhams) in back wages, from 65 different companies.

The number of inspectors in the labor division of the Ministry of Labor and Social Affairs substantially decreased during the year after many of the inspectors resigned. Although inspectors attempted to enforce health and safety regulations, there were insufficient inspectors and resources to adequately enforce occupational health and safety codes in each emirate. There were frequently reports in the press of cases of workers who were killed on the job site as a result of inadequate safety measures. Workers' jobs were not protected if they removed themselves from what they considered to be unsafe working conditions. However, the Ministry of Labor and Social Affairs can force employers to reinstate workers who were dismissed for refusing to perform unsafe work. Injured workers are entitled to fair compensation, and all workers have the right to lodge labor-related grievances with the MOL, which mediates the dispute between the parties. Either party has the right to end mediation at any time and have the complaint referred to the Court of First Instance. Workers, particularly unskilled workers, in dispute with their employers over unpaid wages, generally agree to a mediated settlement for less money than they are owed in order to avoid a protracted court battle. However, workers in disputes with employers generally do not take action due to fear of reprisals, including withdrawal of sponsorship or deportation.

Some employers abused domestic workers by excessive work hours; nonpayment of wages; verbal, physical, and sexual abuse; and restriction of movement. During the year, the government convicted at least five persons in separate cases involving abuse of domestic workers.

Domestic workers may file complaints with the Ministry of Interior or go to court, but were likely to be fined or countercharged with theft and deported. During the year, the ministry took action against hundreds of employers who abused or failed to pay their domestic employees. According to new regulations, ministry officials can ban an employer from further sponsorship of domestic employees after receiving four reports of abuse.

On July 12, the cabinet loosened the sponsorship and residency regulations to grant the MOL's 2.7 million workers more freedom of movement in the labor market. (These workers do not include the approximate 264,000 government employees (covered by the Civil Service Law) or 200,000 to 300,000 domestic servants who are regulated directly by the Ministry of Interior.) The law took effect in August.

Under the law, all workers who enter the country on a labor permit are limited in the number of times that they may change employers under that permit. The new regulations allow foreign workers holding graduate or professional degrees to transfer jobs after one year, with no limit on the number of times that they can change employers. Foreign workers holding bachelor's degrees are allowed to change employment after two years, with a maximum of two transfers. Foreign workers and laborers without university degrees are permitted to change employment after three years (allowing the employer more time to benefit from training the unskilled laborers), but only once. In each case, leaving the country for six months and filing for

a new labor permit restarts the process, thus allowing a worker more transfer opportunities.

All workers wishing to change employment must either complete their existing contract, provide a valid reason to dispute their existing contract (such as the non-payment of wages for at least three months), or obtain a letter of “no objection” from their current employer. Any worker not meeting one of these three criteria must leave the country for at least six months and apply for a new work permit before changing employers. Fees for changing sponsorship range from approximately \$400 (1,500 dirhams) to \$1,350 (5,000 dirhams), with the higher fees charged for unskilled laborers to change employers. The law requires the employer to pay this fee, but in practice the employer usually requires the employee to pay the fee, which can be prohibitive for low-wage earners.

The MOL fines companies approximately \$1,400 (5,000 dirhams) per year for each labor card that is expired. Failure to comply results in a cessation of all transactions with the MOL. A MOL official reported that employers often forced workers to pay the fine for an expired labor card and the fee for a new labor card, under threats of reprisals, including a cancellation of their sponsorship.

Employers historically have held their employees’ passports, thus preventing them from leaving the country without prior permission. In 2003, the Federal Supreme Court ruled that employers could not legally withhold employees’ passports because they were personal documents (see section 5). The MOL distributed pamphlets, in both English and Arabic, to foreign workers advising them to report employers who violated this regulation. However, there were reports that, in many cases, the law did not have a practical impact on either the private or public sectors, and withholding passports from employees was still widely practiced. There have been no recent or consistent attempts by the Ministries of Labor or Interior to enforce the regulation.

The government enforced health and safety standards and required every large industrial enterprise to employ a certified occupational safety officer; however, these standards were not observed uniformly.

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## YEMEN

Yemen is a republic under the leadership of President Ali Abdullah Saleh since 1978, and has a population of approximately 21 million. The law provides that the president be elected by popular vote from among at least two candidates endorsed by parliament. A 2001 referendum extended the president’s term from five to seven years allowing President Saleh, who has been president of the unified Republic of Yemen since 1990, to remain in office, subject to reelection in 2006, until 2013. The prime minister is appointed by the president and as head of government, in consultation with the president, selects the Council of Ministers to assist in the duties of the executive branch. Although the country maintains a multiparty system, the General People’s Congress (GPC) dominates the government. The bicameral legislature is composed of an elected 301-seat House of Representatives (Majlis al-Nuwaab) and an appointed 111-member Consultative Council (Majlis al-Shura). The 2003 parliamentary elections were considered to be generally free and fair; however, there were problems with underage voting, confiscation of ballot boxes, voter intimidation, and election-related violence. Although the parliament was not an effective counterweight to executive authority, it demonstrated increased independence from the government for a second consecutive year. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority.

The government generally respected human rights in some areas; however, its record remained poor in other areas. The government and unidentified parties usually associated with the government or security forces intensified harassment of journalists and political critics.

The following human rights problems were reported:

- limitations on citizens’ ability to change government
- acknowledged torture
- poor prison conditions
- arbitrary arrest
- prolonged pretrial detention
- weak judiciary

- significant restrictions on freedom of press and assembly, and limited restrictions on speech
- intensified harassment of journalists
- limited freedom of association, religion, and privacy
- government corruption and lack of transparency
- discrimination against women
- child marriage
- trafficking in persons
- child labor
- restricted worker rights

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the government or its agents; however, security forces killed or injured suspects during apprehensions.

In March the government resorted to military force after an armed rebellion in the northern governorate of Saada resumed. The rebellion was led by the “Shabab al-Moumineen” (The Believing Youth), a movement that follows the teachings of Shiite cleric Hussein Badr Eddine al-Houthi, who was killed by security forces in September 2004. The government confirmed that 500 troops were killed; however, press reports estimated that approximately 500 troops and “hundreds” of rebels were killed during the fighting. Unofficial sources estimated the death toll to be near 800 troops, 600 rebels, and less than 100 civilians. No official estimates of civilian deaths are available. Opposition media and political leaders claimed the government used excessive force in suppressing the rebellion. Some al-Houthi supporters captured during the first and second conflict remained in detention or were prosecuted at year’s end (see section 1.d.). Intermittent clashes between rebels and government troops in the north continued.

From July 19–20, during violent demonstrations in several cities, approximately 43 persons were killed and 471 were injured. Demonstrators were protesting the rise in gas prices after the government lifted fuel subsidies (see section 2.b.).

From March 28 through mid-April, a series of grenade attacks aimed at security personnel and installations killed 5 civilians and injured 28 others in the capital city. The attacks were carried out by followers of the Shabab movement in retaliation for the government’s actions in Saada. At year’s end 37 defendants were standing trial for the Sana’a attacks.

Tribal violence resulted in a number of killings and other abuses, and the government’s ability to control tribal elements remained limited (see section 5). In several cases long-standing tribal disputes were resolved through government-supported mediation by nongovernmental actors.

Fatal shootings and violence continued during the year. In most cases, it was impossible to determine the perpetrator or the motive, and there were no claims of responsibility. Although a few may have had criminal, religious or political motives, most appeared to involve tribal revenge or land disputes.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, during the year, there were some reports of tribal kidnappings, traditionally committed to attract government attention to a particular grievance.

On August 7, tribesmen held 3 Spanish tourists for 12 hours to demand the release of a tribal member being held in an Aden jail. On August 17, tribesmen kidnapped 10 employees of the office of the UN High Commissioner for Refugees (UNHCR) in the Shebwa governorate to demand that the government resolve a land dispute. On November 21, two Swiss tourists were kidnapped in Marib governorate. On December 21, two Austrian tourists were also held for three days by area tribesmen. In both cases captors demanded that the government release imprisoned fellow tribal members. On December 28, the former German deputy vice-minister of foreign affairs and his family were kidnapped while touring southern Yemen. In that case tribesmen also requested the release of fellow tribe members from government prisons. In all the cases the government sent negotiators who secured the hostages’ release. There were some known instances of carjacking during the year perpetrated by economically motivated tribal elements.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, members of the Political Security Office (PSO) and Ministry of Interior (MOI) police forces tortured and abused persons in detention. Authorities used force during interrogations, especially against those ar-

rested for violent crimes. Although penal law permits amputations and physical punishment such as flogging for some crimes, which the government maintains is in accordance with Shari'a (Islamic law), there were no reports of amputations or floggings during the year.

The government acknowledged that torture occurred; however, it claimed that torture was not official policy. For the second consecutive year, journalists, government, and human rights nongovernmental organization (NGO) officials reported that both instances and severity of torture in MOI prisons declined. In cases where there was torture, illiteracy, lack of training among police, corruption, and pressure from superiors to produce convictions usually played a role.

Torture continued to remain a problem in PSO prisons, which were not monitored by other government agencies. There were credible reports pointing to a preferred use of nonphysical abuse, such as sleep deprivation, cold water, and threats of sexual assault, as the primary form of torture in PSO prisons. In October two former PSO prisoners reported being repeatedly tortured and made to sleep without blankets in cold cells while being held without charge. There were reports that the MOI's Criminal Investigative Department (CID) routinely used torture to obtain confessions. On February 4, CID forces investigating a theft case in Dhamar governorate rounded up five suspects who were reportedly beaten during interrogation. One suspect confessed to the crime and was referred to the Attorney General's office for prosecution. The other four were released. Defense attorneys and some human rights NGOs observed that most confessions introduced as evidence against defendants in criminal courts were obtained through torture. Government sources vehemently denied this.

During the year approximately 14 police officials were disciplined or prosecuted for abuses. From those cases, seven officers were dismissed, and seven were referred to the courts for prosecution. Those cases remained pending at year's end.

On September 3, two MOI officers were put on trial for the 1999 torture-induced death of an Aden bombing suspect. Some human rights NGOs claimed that the defendants did not appear in court and were possibly being tried in absentia. There was no further information on this case at year's end.

In October 2004 seven Taiz police officers who were on trial for the severe torture of a juvenile murder suspect had their case suspended after they failed to appear for court. At year's end it was reported that the officers were free and living in Taiz and that authorities refused to re-apprehend them. There was no further action on the case.

Throughout the year the government took effective steps to curb torture in MOI prisons. From February and to October, the government, in conjunction with a national human rights NGO, the United Nations Development Program (UNDP), and the British government, trained over 340 MOI officers on the illegality of torture. Under the initiative, the same NGO printed and the government distributed a human rights guide for MOI officers. In the first week of July, 360 female officers completed similar training. The MOI, in conjunction with the Ministry of Human Rights (MHR), also intensified its monitoring of prison conditions around the country.

Security forces shot in the air and used tear gas against demonstrators and rioters on at least three separate occasions during the year (see section 2.b.). Reports indicated that troops burned fields during fighting with Shabab forces (see sections 1.g. and 2.d.).

*Prison and Detention Center Conditions.*—Although some observers noted improvements in MOI prison conditions in the past year, local and international observers reported that prison conditions, particularly in rural areas, remained poor and did not meet internationally recognized standards. Although the MHR and a number of NGOs were granted limited access to MOI prisons, the government severely limited access to PSO prisons by independent human rights observers.

During his six-month incarceration in the Sana'a Central Prison, Abdulkarim al-Khaiwani, who was imprisoned on violations of the press law and treason charges (see section 2.a.), was beaten several times by other prisoners.

Many prisons, particularly in rural areas, were still overcrowded with poor sanitary conditions and inadequate food and health care. In some cases prison authorities exacted bribes from prisoners to obtain privileges or refused to release prisoners who completed their sentences until family members paid a bribe.

Although women were held separately from men, and conditions were equally poor in women's prisons, their conditions differed in some respects. By custom, young children and babies born in prison were likely to be incarcerated along with their mothers. Local tradition requires male relatives of female prisoners to arrange their release; however, female prisoners regularly were held in jail past the expira-

tion of their sentences because their male relatives refused to authorize their release due to the shame associated with their alleged behavior.

In some rural and women's prisons, children were held with adults, and pretrial detainees were held with convicted prisoners. Security and political detainees generally were held in separate facilities operated by the PSO.

Unauthorized "private" prisons, in rural areas controlled by tribes, remained a problem. Tribal leaders misused the prison system by placing "problem" tribesmen in "private" jails, either to punish them for noncriminal indiscretions or to protect them from retaliation. At times such prisons were simply rooms in a tribal sheikh's house. Persons detained in such prisons often were held for strictly personal or tribal reasons without trial or sentencing. Although senior government officials did not sanction these prisons, there were credible reports of the existence of private prisons in government installations. During the year the MOI and MHR continued to implement directives to align the country's arrest, interrogation, and detention procedures more closely with international standards. The government stepped up efforts to close down unauthorized prisons during the year with limited success.

Persons with mental illness who had committed crimes were imprisoned without adequate medical care. In some instances authorities arrested without charge persons with mental illness and placed them in prisons with criminals.

In 2003 the president declared the release of mentally disturbed prisoners into the custody of mental institutions. At year's end MOI-run prisons in Sana'a, Aden, and Taiz operated in conjunction with the Red Crescent semiautonomous units for mentally disturbed prisoners. Due to a lack of resources, conditions in these units were reportedly deficient. In many cases prisoners with mental disabilities were held with general prison populations throughout the country. This was primarily due to a lack of adequate facilities and staff.

During the year the government spent approximately 2 million dollars (383 million Yemeni riyals) to help MOI prisons meet international standards and to alleviate overcrowding. The government built new prisons in four governorates, refurbished or expanded six additional prisons, and increased funding to implement prisoner education programs throughout the country. The government also built half-way houses for juvenile offenders in Sana'a and Taiz.

Although limited access was granted to family members of PSO-held detainees, requests for access by parliamentarians and NGOs were routinely denied. Access to MOI prisons was at times permitted, although parliamentarians and NGOs complained that it was subject to several limitations. In June 2004 the International Committee of the Red Cross (ICRC) suspended a second round of visitations to PSO prisons citing a lack of understanding of its universally applied procedures. The ICRC reported that after an October 2004 meeting, the MOI demonstrated a clearer understanding of ICRC protocols that called for greater access to the ministry's prisons. However, the ICRC was still working on understandings of protocols for access to PSO prisons and ICRC visits to MOI or PSO prisons had not resumed by year's end.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the government generally did not observe these prohibitions. Enforcement of the law was irregular and in some cases nonexistent, particularly in cases involving security offenses.

*Role of the Police and Security Apparatus.*—The primary state security and intelligence gathering apparatus is the PSO, which reports directly to the president. The newer National Security Bureau (NSB) also reports directly to the president's office. Many of its duties were still not clearly delineated and appeared to overlap with the PSO. The police CID reports to the MOI and conducts most criminal investigations and arrests. The Central Security Organization (CSO), also a part of the MOI, maintains a paramilitary force. Corruption was a problem, and there were no government investigations of police corruption during the year. There were reports that some police stations maintained an "internal affairs" section commissioned to investigate abuses, and that any citizen has the right to raise an abuse case with the prosecutor's office commissioned to investigate cases. Enforcement of the law and effective investigations were irregular due to weak government power in tribal areas and lack of resources.

*Arrest and Detention.*—According to the law, individuals cannot be arrested unless caught in a criminal act or served with a summons. Detainees must be arraigned within 24 hours of arrest or be released. The judge or prosecuting attorney must inform the accused of the basis for the arrest and decide whether detention is required. The law stipulates that a detainee may not be held longer than seven days without a court order. Despite these constitutional and other legal provisions, arbitrary



trary arrest and prolonged detention without charge or, if charged, without a public preliminary judicial hearing within a reasonable time remained common practices.

The law prohibits incommunicado detentions and provides detainees with the right to inform their families of their arrests and to decline answering questions without an attorney present; however, these rights were not always respected. The law states that the government must provide attorneys for indigent detainees; however, in practice this did not always occur. Almost all rural cases were settled out of court with tribal mediators. There are provisions for bail; however, some authorities abided by these provisions only if bribed.

Citizens regularly claimed that security officials did not observe due process when arresting and detaining suspects. Security forces at times detained demonstrators (see section 2.b.). Members of security forces continued to arrest or simply detain persons for varying periods of time without charge, notification to their families, or hearing. Detainees were often unaware of which agency was investigating them, and the agencies themselves frequently complicated the situation by unofficially transferring custodial authority of individuals to other agencies. Security forces routinely detained relatives of fugitives while the suspect was being sought (see section 1.f.).

The government failed to ensure that detainees and prisoners were incarcerated only in authorized detention facilities. The MOI and the PSO operated extrajudicial detention facilities. Unauthorized private prisons also existed (see section 1.c.).

On April 3, military forces arrested 22-year-old Munif Damesh and his 50-year-old uncle Naif Damesh, both of whom working for two foreign journalists, and detained them without charge or trial. At year's end the two were still being held for unknown reasons and had not been allowed to contact their family or a lawyer.

According to the National Organization for Defending Rights and Freedoms (HOOD), four Cameroonian nationals have been held in a PSO prison for unknown reasons since March 1995. On September 17, parliament inquired about the case to the minister of interior, who subsequently promised to transfer the Cameroonians' cases to the attorney general's office. At year's end no further information was available on their case.

An unknown number of supporters of the rebel Shiite cleric al-Houthi were either arrested or remained in detention. Although most human rights NGOs and international observers estimated that one thousand persons remained incarcerated, it was unknown how many of those detained participated in the armed rebellion. The government acknowledged that 400 al-Houthi supporters were detained during the year as a result of the March rebellion in Saada. Of those, 181 were released, and 219 were referred to the attorney general's office for prosecution. An MOI source stated that 404 al-Houthi supporters had been released. While many of those arrested participated in the renewed March rebellion against the government, other detainees were arrested for their support of the rebellion or familial or tribal connections with al-Houthi supporters. On August 16, 37 Saada detainees were put on trial for a series of grenade attacks in March against security officials in Sana'a. On September 28, their trial was temporarily suspended after President Saleh announced a general amnesty for all Saada detainees. At year's end the trial was ongoing.

In July, Amnesty International (AI) reported that security forces carried out mass arrests of al-Houthi followers in Sadaa and Sana'a and that many of those arrested were detained incommunicado. On May 8, security forces arrested Ibrahim al-Saiani, whose parents alleged to be 14 years old, after storming his family home in Sana'a. AI reported on October 31 that al-Saiani's health deteriorated in custody and that authorities were not able to confirm that he was receiving treatment. Al-Saini is an alleged follower of al-Houthi and, at year's end, remained in detention without access to legal counsel.

During the year the government also continued to detain suspects accused of links to terrorism. The government did not publish numbers of detainees held under suspicion of terrorist affiliations or activities; however, NGO estimates ranged from 200 to 300 individuals.

On August 29, the government arrested 15 men in the Abyan governorate and 45 men in Aden governorate for their alleged affiliations with Jihadist movements. All the men remained incarcerated at year's end.

During the year the government arbitrarily arrested an increased number of persons with views critical of the government. On May 15, the government arrested journalist and activist Abdul Rahim Mohsen, who founded an organization to advocate political reform. Mohsen was held incommunicado for three days before he was released and charged with possessing alcohol. At year's end Mohsen was still not prosecuted on the charge.

A large percentage of the total prison population consisted of pretrial detainees, some of whom have been imprisoned for years without charge.

During the year the government increased inspection missions to secure the release of persons held without charge; however, in some instances the government did not resolve the cases it did investigate.

Throughout the year the government sponsored ideological dialogues led by Islamic scholars as part of a program aimed at convincing detainees to renounce extremist beliefs, denounce terrorism, pledge to obey the laws and the government, respect non-Muslims, and refrain from attacking foreign interests. Detainees who agreed to these conditions were released. These efforts reportedly had limited success. According to a human rights NGO, some detainees who were released under this program were re-arrested during the year.

*Amnesty.*—On September 26, President Saleh announced a general amnesty to all Saada detainees. On September 28, a local newspaper printed the names of 651 Saada detainees expected to be released. In an October 5 follow-up to his amnesty, the president ordered the formation of a committee to carry out his directives. An unspecified number of Saada detainees, likely fewer than 100, reportedly were released in October. There were no further developments at year's end.

On September 28, the government announced the release of 254 persons imprisoned during the July riots under a general amnesty (see section 1.a).

On October 30, the government reported that it would release 1,400 prisoners, including the 651 Saada detainees noted above, as part of its annual Eid al-Fitr Amnesty. The actual number of prisoners released could not be confirmed at year's end.

*e. Denial of Fair Public Trial.*—The law provides for an “autonomous” judiciary and independent judges; however, the judiciary was weak and severely hampered by corruption and executive branch interference. The executive branch appoints judges, removable at the executive's discretion. There were reports that some judges were harassed, reassigned, or removed from office following rulings against the government. Many litigants maintained, and the government acknowledged, that a judge's social ties and occasional bribery influenced the verdict more than the law or the facts. Many judges were poorly trained; some were closely associated with the government. The judiciary was hampered further by the government's frequent reluctance to enforce judgments. Tribal members at times threatened and harassed members of the judiciary.

There are six types of courts: criminal; civil and personal status; special cases (covering cases such as kidnapping, carjacking, attacking oil pipelines, and other acts of banditry and sabotage); commercial; and court-martial. In recent years other limited jurisdiction courts have been established under executive authority, such as a juvenile and public funds court. The judicial system is organized in a three-tiered court structure. At the base are the courts of first instance, which are broadly empowered to hear all manner of civil, criminal, commercial, and family matters. A single judge may hear a case in these courts. Decisions taken in the courts of first instance may be appealed to the courts of appeal, of which there is one in each province and one in the capital. Each court of appeal includes separate divisions for criminal, military, civil, and family issues. Each division is composed of three judges. Above the courts of appeals is the Supreme Court.

The Supreme Court, the highest court, is empowered to settle jurisdictional disputes between different courts, hear cases brought against high government officials, and serve as the final court of appeal for all lower court decisions. The Supreme Court has eight separate divisions: constitutional (composed of seven judges including the chief justice), appeals' scrutiny, criminal, military, civil, family, commercial, and administrative. The Supreme Court has special panels empowered to determine the constitutionality of laws and regulations.

In addition to the regular hierarchy of courts, there are courts for military, juvenile, tax, customs, and labor matters, whose decisions may be appealed to the courts of appeal.

The government continued judicial reform efforts. During the year the UNDP, in conjunction with the Ministry of Justice (MOJ), established two model penal courts in Sana'a and Aden. These courts, which abided by higher standards of accountability and transparency than normal courts, were designed to provide greater access to under-represented groups such as women and the poor (see section 5). In January the Civic Democratic Forum, in conjunction with a foreign government, conducted training for 350 judges nationwide on judicial transparency. In April the government implemented a program to reform the infrastructure of eight courts of appeals to allow better access to litigants. During the year the MOJ also continued to conduct conferences around the country to strengthen the reform process.

*Trial Procedures.*—All laws are based on a mixture of old Egyptian laws, Napoleonic tradition, and Shari'a. There are no jury trials. Judges, who play an active role in questioning witnesses and the accused, adjudicate criminal cases. By law the gov-

ernment must provide attorneys for indigent defendants in high crime (felony) cases; however, in practice, this did not always occur. By law, prosecutors are a part of the judiciary and independent of the government; however, prosecutors also have a role in investigating criminal cases. The police were generally weak and played a limited role in developing cases.

The security services continued to arrest, charge, and submit cases to the prosecutor's office to try persons alleged to be linked to various shootings, explosions, and other acts of violence. Citizens and human rights groups alleged that the security forces and judiciary did not observe due process in most cases.

The accused are considered innocent until proven guilty. Defense attorneys are allowed to counsel their clients, address the court, and examine witnesses and any relevant evidence. All defendants, including women and minorities, have the right to appeal their sentences. Trials were generally public; however, all courts may conduct closed sessions "for reasons of public security or morals." Foreign litigants in commercial disputes complained of biased rulings. The law extended to all citizens.

The law, social custom, and Shari'a, as interpreted in the country, discriminated against women, particularly in domestic matters. For example, men were permitted to take as many as four wives, although very few did so. Husbands were also allowed to divorce their wives without justifying their action in court. A woman was also permitted to divorce; however, she usually had to provide a justification, such as her husband's nonsupport, impotence, or taking of a second wife without her consent. Laws mandating that a wife must obey her husband were abolished by presidential decree in 2004.

In addition to regular courts, there is a system of tribal adjudication for non-criminal issues; however, in practice, tribal "judges" often adjudicated criminal cases as well. The results carried the same if not greater weight than court judgments. Persons jailed under the tribal system usually were not charged formally with a crime, but were publicly accused of their transgression.

A special court exists to try persons charged with kidnapping, carjacking, attacking oil pipelines, and other acts considered to be a "public danger," such as banditry and sabotage (see section 1.b.). This court provides the defendants with the same rights provided in the regular courts, but were more efficient and effective in enforcing those rights than regular courts. There are no military or security tribunals that try civilians.

There were no reports of prosecutors being dismissed for violating the law.

Parliament has exclusive jurisdiction over executive branch officials and their representatives for numerous crimes including bribery, interference and embezzlement. No government official was investigated or tried under this law during the year.

*Political Prisoners.*—The precise number of political prisoners, if any, was unclear, and human rights activists were unable to provide any specific data on political prisoners.

On March 23, Abdulkarim al-Khaiwani, who the government maintained was not a political prisoner since he was convicted lawfully in September 2004 for violations of the press law and treason (see section 2.a.), was released after being granted a presidential amnesty.

On May 29, a Sana'a court sentenced two imams, Yahia Hussein al-Dailami and Muhammed Ahmad Miftah, to death and eight years' imprisonment, respectively, for establishing contacts with Iran for the purpose of harming the country. The two men publicly opposed the government's action in Saada and formed the Sana'a Youth Organization, a group that supported al-Houthi. Both men maintained that they only advocated peaceful dissent against government action in Saada. On December 3, an appeals court upheld both verdicts and forwarded Dailimi's case to the Supreme Court for ratification.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such action; however, PSO and MOI police forces routinely searched homes and private offices, monitored telephones, read personal mail, and otherwise intruded into personal matters for alleged security reasons. Activities were conducted without legally issued warrants or judicial supervision. PSO and MOI police forces routinely detained relatives of suspects while the suspect was being sought (see section 1.d.). According to HOOD, over 100 such cases were reported throughout the country during the year.

The law prohibits arrests or the serving of a subpoena between the hours of sundown and dawn; however, there were reports that persons suspected of crimes were taken from their homes without warrants in the middle of the night.

No citizen may marry a foreigner without permission from the MOI (see section 5), but this regulation does not carry the force of law and appeared to be enforced irregularly.

The government claimed that it did not monitor Internet usage; however, the government occasionally blocked political websites and those it deemed to be sexually explicit (see section 2.a.).

In April the PSO arrested an 85-year-old man to secure the custody of a former Jihadist detainee who fled the country; the man had vouched that the detainee would remain in the country if he was released early. In Dhamar governorate, an 80-year-old man remained in MOI custody for the second year after MOI forces arrested him to secure the return of his son, who was wanted on murder charges. There were credible reports of entire families being detained in Saada to secure the custody of wanted individuals. Government informers monitored meetings and assemblies (see section 2.b.).

In other cases detention of family members continued while the concerned families negotiated compensation for the alleged wrongdoing. Arbitration and mediation by families, tribesmen, and other nongovernmental interlocutors was commonly used to settle such cases.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—As a result of the renewed fighting in Saada (see section 1.a.), approximately 100 homes and some small villages were destroyed and civilians were killed in crossfire. As many as 13 thousand persons may have been displaced by the conflict; most resided with other relatives in the area. Government forces exercised some degree of caution when fighting in civilian areas. The first 10-week Saada rebellion, which ended in September 2004 following the death of the rebel cleric Badr Eddine al-Houthi, claimed more than 600 lives. The actual number of civilians killed during that conflict was unknown.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press “within the limits of the law”; however, the government did not respect these rights in practice. The 1990 Press and Publication Law criminalizes “the criticism of the person of the head of state . . . [that] does not necessarily apply to constructive criticism,” the publication of “false information” that may spread “chaos and confusion in the country,” and “false stories intended to damage Arab and friendly countries or their relations” with the country. The country’s security apparatus, including the NSB and elements of the military threatened and harassed journalists to influence press coverage. Although most citizens were uninhibited in their private discussions of domestic and foreign policies, they generally were cautious in public, fearing harassment for criticism of the government.

The Ministry of Information influenced the media through its control of printing presses, subsidies to newspapers, and its ownership of the country’s sole television and radio outlets. Three independent newspapers and no opposition newspapers owned their own presses. There were 8 government-controlled, 41 independent, and 30 party affiliated newspapers. There were approximately 90 magazines of which 45 were private, 27 were government-controlled, and 18 were party-affiliated. The government selected the items to be covered in news broadcasts, and it often did not permit broadcasts critical of the government. The government televised parliamentary debates and occasionally permitted broadcasts of aggressive criticism of ministries.

Press law regulations specify that newspapers and magazines must apply annually to the government for licensing renewal and that they must show continuing evidence of approximately \$4,375 (700 thousand Yemeni riyals) in operating capital. There were no reports of denied registrations; however, there were reports that the government did not act on the license applications of at least two independent newspapers. The government granted new press licenses to at least three newspapers. Those papers claimed to be independent, although many journalists alleged that they were closely affiliated with the ruling GPC party.

In line with a June 2004 presidential declaration ending the practice of detaining journalists, editor-in-chief of the *As-Shura* newspaper, Abdulkarim al-Khaiwani, was pardoned on March 23 after serving six months of a one-year prison sentence. *As-Shura* published articles critical of the president’s handling of the al-Houthi rebellion and succession.

Although no additional journalists were incarcerated, the government and unidentified parties linked to the government or its security apparatus markedly increased pressure on independent and political party newspapers. Newspaper journalists reported that government harassment, including threatening phone calls to them and their families, attacks on their homes, brief imprisonments, and personal surveillance intensified during the year. Many journalists practiced self-censorship due to fear of government reprisal.

On November 26, the southwestern court in Sana'a issued a verdict against *Al-Tajamu*, a weekly affiliated with the Unionist Congregation Party, shutting down the newspaper and banning its distribution for six months. The court also condemned the paper's chief editor and a columnist for publishing an August 2004 article that allegedly contributed to ethnic conflicts. The court required the pair to pay a fine of \$773 (150 thousand Yemeni riyals) each and suspended the newspaper from publishing for six months.

Security forces continued to arbitrarily arrest and detain a number of persons with views critical of the government (see section 1.d.).

On January 3, police evicted all the staff and sealed the entrance to the building of the independent daily *Al-Hurriya*. In response to an October 2004 article criticizing the president, a Sana'a court shut down the daily in December 2004 and sentenced its editor, Abdulkareem Sabra, and one of its journalists, Abdulkawi al-Qubati, to two years in prison with hard labor. Both sentences were suspended on appeal.

On July 5, armed men, reportedly linked to the government, seized the offices of the *As-Shura* newspaper. The armed men subsequently permitted a new pro-government staff to occupy the paper's premises. The newspaper has since stopped publication, and the original staff created a news Web site with the same name.

On August 23, unidentified persons reportedly linked to security forces kidnapped and took to an undisclosed location Jamal Amer, the editor in chief of the independent *Al-Wasat* newspaper. During his six-hour ordeal, Amer was beaten, urinated on, interrogated about his contacts with foreign embassies, and threatened with death if he continued writing articles critical of the government. The attack came after *Al-Wasat* published an article on government scholarships being routed to government officials' children. The MOI promised to investigate the matter, although there were no developments by year's end. Military sources publicly denied involvement in the abduction.

On September 1, Air Force soldiers arrested Khalid Hammadi, a correspondent for the London-based *Al-Quds al-Arabi*, after he reported on a military plane crash. The soldiers required Hammadi to sign a pledge agreeing to not report on military issues as a condition to his release. The same day, a defense ministry official publicly warned journalists against writing on military issues without prior governmental approval.

According to the *Yemen Times*, on December 10, security forces detained Al-Jazeera's Yemen correspondent Ahmed al-Shalafi and cameraman Ali al-Baidhani, who were filming a protest by employees of a public textile company in the capital. The film that was recorded at the scene of the protest was confiscated and destroyed at the police station. Both were released more than an hour later after "high-level" instructions were given.

Other unidentified parties were also responsible for press harassment.

On July 17, Hajea al-Jehafi, the managing editor of the independent newspaper *An-Nahar*, was injured while opening a letter bomb. Sources attributed the attack to a tribal leader.

On August 25, Mohammed Saleh al-Hadhri, an independent journalist who wrote for the Yemen Socialist Party (YSP) affiliated *Al-Thawri* newspaper, was stopped by armed men, reportedly linked to tribal elements, and warned against writing for opposition newspapers.

On November 12, opposition journalist Nabil Sabaie was jostled and then stabbed in both shoulders by armed men in broad daylight on a main street of the capital. An MOI official attributed the attack to criminals attempting to steal Sabaie's cell phone. On November 14, defense ministry newspaper "26 September" reported that one of Sabaie's assailants was arrested. There was no further action on the case at year's end.

On December 8, journalist Mohamed Sadiq Al-Odaini was attacked by armed men near his house in the capital and held hostage in his house until early morning of December 9. Security forces did not arrive until the next day after the perpetrators had gone. On December 10, a MOI source attributed the attack to al-Odaini's landlord; Odaini had refused to leave his apartment.

In an attempt to counter dissent, elements close to the government or security apparatus attempted to clone two newspapers, *Al-Shura* and *Al-Thawri*, by publishing newspapers with similar names, fonts, and colors to the targeted newspapers, but that carried more progovernment editorials and stories.

Journalists were tried and sentenced for writing articles critical of the president or for reporting on sensitive issues. More than 12 cases have been lodged against *Al-Thawri* and/or its editor-in-chief, Khalid Salman. On November 19, a Taiz court fined the paper \$3,800 (750 thousand Yemeni riyals) for libeling a Taiz city finance director. The remaining cases were unresolved at year's end. The paper published

a series of articles critical of corruption and the president. The government did not follow through on its 2004 pledge to prosecute journalists whom it deemed supportive of the rebel cleric al-Houthi.

The Yemeni Journalists Syndicate (YJS) defended freedom of the press and publicized human rights concerns. The YJS has been vocal in condemning recent government actions that closed several publications and imprisoned journalists.

At times, customs officials confiscated foreign publications regarded as pornographic or objectionable due to religious or political content. During the year there were some reports that authorities monitored foreign publications and banned those deemed harmful to national interests.

Authors of books were required to obtain a certification from the Ministry of Culture (MOC) for publication and also were required to submit copies to the ministry. At times, publishers did not deal with an author who had not yet obtained a certification. Most books were approved, but the process was time consuming. There were reports that both the MOC and the PSO monitored and sometimes pulled books from store shelves after publication. During the year publishers were banned from distributing some books that espoused Zaydi-Shiite Islamic doctrine (followed by approximately 30 percent of Yemenis and of which al-Houthi was a follower) or were deemed pornographic. The government denied that the media was subject to censorship by any security apparatus.

The government did not impose restrictions on Internet use; however, it intermittently blocked access to some political sites and Web pages deemed immoral (see section 1.f.).

The government restricted academic freedom, claiming it was necessary due to the politicization of university campuses. Many times, political parties attempted to influence academic appointments, as well as university faculty and student elections. In August the president of Sana'a University forbade the creation of new student associations, citing a Yemeni law forbidding campus partisanship. Opposition sources contended that this regulation was not enforced against GPC-affiliated organizations.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly; however, the government limited this right in practice. The government required a permit for demonstrations, which it issued routinely. Government informers monitored many meetings and assemblies.

The government banned and disrupted some demonstrations, allegedly to prevent them from degenerating into riots and violence. On March 18, small-scale demonstrations occurred in Sana'a, Aden, Hodeida, and Taiz when shopkeepers protested the implementation of a new sales tax. Although mostly peaceful, there were reports that demonstrations in Aden and Taiz erupted into riots and that security forces shot in the air and used tear gas against crowds of demonstrators. No serious injuries were reported.

From July 19 to 20, riots protesting the rise in gas prices erupted across the country after the government lifted fuel subsidies. The violence resulted in approximately 43 deaths and 471 injuries. Press reports asserted at least 23 civilians were killed, including a 12-year-old child. On July 23, the government reported that at least 255 security personnel and 120 protesters were injured. Parliament submitted an inquiry to the MOI on the shooting deaths of demonstrators. The investigation was still pending at year's end.

On December 17, 1 person was reportedly killed after MOI security personnel removed approximately 300 demonstrators who had been encamped since November 13 in front of the Sana'a UNHCR headquarters, demanding resettlement in third countries. Nine persons, four MOI security personnel and five demonstrators were injured during the resulting violence. On November 21, MOI security forces injured one female protester in clashes with the demonstrators (see section 2.d.).

In November 2004 a member of the security forces shot into a crowd of protesters in front of an Aden court. One person was killed and another wounded. The protesters were monitoring the trial of a member of an intelligence agency who was accused of murder. Police claimed that the crowd was out of control. A fact finding committee was set up to investigate the incident the same week. There was no further action on the incident by year's end.

*Freedom of Association.*—The law provides for freedom of association, and the government usually respected this right in practice. In some instances the ruling party retained control of professional associations and NGOs by influencing internal elections (see section 6.b.).

Depending on its mandate, an association or NGO must obtain an operating license, usually a routine matter, from one of five ministries: Labor and Social Affairs

(MLSA), Culture, the Ministry of Education, Education, or Vocational Training and Technical Education.

The government cooperated to some extent with NGOs, although NGOs complained that there was a lack of response to their requests for more funding. By law the government provided all legally operating NGOs with an annual stipend. According to most NGO professionals, the government's limited responsiveness and funding was due to a lack of material and human resources. Some NGO professionals complained that NGOs that did not agree with government policy were subject to different registration and funding criteria than those deemed loyal by the ruling GPC party leadership.

All political parties must be registered in accordance with the Political Parties Law, which stipulates that each party must have at least 75 founders and 2,500 members (see section 3).

*c. Freedom of Religion.*—The law provides for freedom of religion; however, the government limited this right in some cases. The constitution declares that Islam is the state religion.

The government took actions to counter the increase in political violence as a result of the June 2004 and March uprisings by the "Shabab al-Moumineen" (The Believing Youth) in the northern governorate of Saada and the ensuing attacks against government officials in the capital (see section 1.a.). The government restricted some practice of religion, which some members of the Zaydi-Shiite establishment alleged focused on them (see section 2.a.). In January the government banned the celebration of Ghadeer Day, a holiday celebrated by some Shi'a, in the Saada governorate. The government also reportedly limited the hours that mosques were permitted to be open to the public, reassigned some Imams who were thought to espouse radical or Zaydi doctrine, and increased surveillance and detention of members of the Shabab.

Followers of religions other than Islam were free to worship according to their beliefs and to wear religiously distinctive ornaments or dress; however, Shari'a forbids conversion from Islam and prohibits non-Muslims from proselytizing, and the government enforced this prohibition. The government required permission for the construction of all places of worship and prohibited non-Muslims from holding elected office.

Under Islam the conversion of a Muslim to another religion is considered apostasy, which the government interprets as a crime punishable by death. There were no reports of cases in which the crime was charged or prosecuted by authorities.

Official policy does not prohibit or prescribe punishment for the possession of non-Islamic religious literature; however, during the year there were reports of persons being harassed and temporarily detained for possession of religious materials with the intent to proselytize.

Non-Muslim citizens may vote but may not hold elected office.

Services for Jewish, Catholic, Protestant, and Ethiopian Orthodox Christians were held in various locations without government interference.

Public schools provided instruction in Islam, but not in other religions; however, most non-Muslims were foreigners who attended private schools that do not teach Islam.

In the last year the government significantly increased its efforts to prevent the politicization of mosques and schools in an attempt to curb religious extremism. This included the monitoring of mosques for sermons that incited violence or other political statements considered harmful to public security. By April the government closed over 2,000 unlicensed religious schools deemed to have deviated from formal educational requirements or promoted militant ideology. Private and national schools are prohibited from teaching courses outside of the officially approved curriculum.

The government also deported foreign students found studying in unlicensed religious schools. On July 5, the Ministry of Endowment and Religious Guidance announced a program to train over 300 women preachers on moderate Islam and religious tolerance.

There were credible reports that authorities banned the publishing of some materials that promoted Zaydi-Shiite Islam (see section 2.a.).

Shari'a-based law and social customs discriminated against women (see section 5).

*Societal Abuses and Discrimination.*—During the year Jews faced some incidents of anti-Semitism. Jewish citizens reported being attacked by a number of students chanting anti-American and anti-Israel slogans. The students damaged their cars and kicked them. Jewish children in the town of Raidah usually rode to school in a covered truck to protect them from stones. After the ruling party tried to put forward a Jewish parliamentary candidate, the General Election Committee adopted

a policy barring all non-Muslims from running for parliament (see section 3). The Jewish population has diminished significantly over the last 50 years from tens of thousands to a few hundred due to voluntary emigration.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, Repatriation, and Exile.*—The law provides for these rights, and the government respected them with some restrictions. The government limited the movement of women, foreigners, and tourists. The two latter groups were required to obtain government permission before leaving the country. In practice, the government did not obstruct domestic travel; however, the army and security forces maintained checkpoints on major roads.

In certain areas armed tribesmen occasionally either manned their own checkpoints or operated alongside military or security officials and subjected travelers to physical harassment, extortion, or theft.

Although not required by law, women customarily were asked if they had permission from a male relative before applying for a passport or leaving the country. One women's rights NGO asserted that women were barred from leaving the country upon a husband's or male relative's request and that this requirement was strictly enforced when women traveled with children. During the year there were several reports of women who were turned away at the airport because they did not have the permission of or were unaccompanied by a male relative. Immigrants and refugees traveling within the country often were required by security officials at government checkpoints to show that they possessed resident status or refugee identification cards.

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

During the year the government continued to deport an unknown number of foreigners studying at Muslim religious schools, and believed to be in the country illegally. The government claimed that these persons were suspected of inciting violence or engaging in criminal acts by promoting religious extremism. The government deported them using existing laws that require all foreigners to register with the police or immigration authorities within a month of arrival in the country.

*Protection of Refugees.*—The law does not provide for the granting of refugee status or asylum in accordance with the UN 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. The government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government continued to grant prima facie refugee status to Somalis who arrived in the country after 1991.

The government also provided temporary protection to thousands of individuals from Iraq and the Darfur region of Sudan who may not qualify as refugees under the 1951 Convention and the 1967 protocol, although there were some reports of deportations. There were also reports that some Iraqi citizens were blocked from reuniting with their families after being denied readmission into the country.

Refugees were allowed to work and travel freely within the country, although they faced some difficulties. There were reports of refugees being refused employment or passage at checkpoints because they lacked legal documentation.

The government cooperated with the UNHCR in assisting refugees and asylum seekers. In December the government, in cooperation with UNHCR, established the first of six planned reception centers to register and provide greater legal protection to refugees. At times authorities arrested without charge and imprisoned an unknown number of undocumented refugees (see section 1.d.).

On December 17, MOI forces forcibly removed approximately 300 refugees protesting in front of the Sana'a UNHCR office since November 13 to demand resettlement in third countries. One demonstrator was reportedly killed, and five were injured (see section 2.b.).

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

The law provides citizens with the right to change their government; however, there were limitations in practice. Although the parliament increasingly demonstrated independence from the government, it was not an effective counterweight to the executive branch. Decision-making and effective power were held by the executive branch, particularly the president, and who can dissolve the parliament. The president appoints the prime minister who presides over a 35-member cabinet (Council of Ministers), whose members the prime minister chooses in consultation with the president.



*Elections and Political Participation.*—The 2003 parliamentary elections were considered by international observers to be an improvement over previous elections; however, there were problems with underage voting, confiscation of ballot boxes, voter intimidation, and election-related violence. In addition, international observers reported that some officials were prevented from approving results that gave victory to opposition parties. There were reports that supporters of rival candidates shot and killed at least three persons and wounded another; no arrests were made. Due to security concerns there was no international monitoring in tribal areas. President Saleh's ruling GPC party increased its large majority in parliament. Approximately 75 percent of those eligible voted (8 million); 43 percent of voters were women.

Ali Abdullah Saleh was elected president to a five-year term in the country's first nationwide direct presidential election in 1999, securing 96.3 percent of the votes. A 2001 referendum adopted term limits for the presidency in effect extending President Saleh's term from a five to seven-year term, and allowed him to remain in office, subject to reelection in 2006, until 2013. The constitution provides that the president is elected by popular vote from at least two candidates endorsed by parliament. Despite the fact that the president's sole opponent was a member of his own party, NGOs, foreign embassies, and UNDP observers found the election free and fair. The candidate selected by the leftist opposition coalition did not receive the minimum number of required votes from the GPC-dominated parliament in order to run in the election.

The law mandates that political parties be viable national organizations that cannot restrict their membership to a particular region. All parties must be registered in accordance with the Political Parties Law, which stipulates that each party have at least 75 founders and 2,500 members. Parties based on regional, tribal, sectarian, class, professional, gender, or racial identities are not permitted. The government provided financial support to most political parties, including a small stipend to publish party newspapers. The constitution prohibits the establishment of parties that are contrary to Islam, oppose the goals of the country's revolution, or violate the country's international commitments.

There are 23 political parties, and candidates from any party could declare their candidacy for elections. The ruling GPC has been the dominant party since unification and controlled 238 seats in parliament. Islah is the only other significant party, and it controlled 46 seats. At times tribalism distorted political participation and influenced the central government's composition. Observers noted that persons were often selected to run for office or given jobs in particular ministries based on their tribal affiliations. Because tribal areas were still run by patriarchal systems, members of tribes voted mostly as directed by their leaders.

Although there were no formal restrictions limiting opposition participation, the government made it difficult for some parties to organize. In May the president publicly accused two relatively minor parties of attempting to overthrow the government by fomenting the Shabab movement. One of those parties' headquarters, the Union for Popular Forces, was subsequently seized by armed men and forcibly recreated under dubious circumstances. By year's end the government continued to hold substantial assets of the opposition YSP that were seized after the 1994 Civil War.

Although women voted and held office, cultural norms rooted in tradition and religious interpretation often limited their exercise of these rights, and the number of women in government and politics did not correspond to their percentage of the population (see section 5). Currently, one woman, elected in 2003, served as a member of parliament and another served in the cabinet as the minister of human rights. During the year, the Supreme Committee for Elections and Referenda established a Women's Department responsible for addressing gender equality in the electoral process.

Many Akhdam, a small ethnic minority who may be descendants of African slaves, did not participate in the political process due to socioeconomic factors. There were no reports that persons with disabilities were prohibited from participating in the political process.

*Government Corruption and Transparency.*—There is a widespread perception of corruption in every branch and level of government. Government officials and parliamentarians alike were presumed to benefit from insider deals and embezzlement. Procurement was a regular source of corruption in the executive branch. In September the Ministry of Public Works acknowledged that only 20 percent of contracts were awarded by tender. The Central Organization for Control and Audit (COCA), the country's investigative body for corruption, reported 68 official cases of corruption for a total loss to the treasury of approximately \$14 million (2.7 billion Yemeni riyals). Another \$41 million (7.9 billion Yemeni riyals) was spent without adhering to legal procedures or in violation of financial laws. The report cited the ministries of Oil, Health, and Vocational Training as violators. COCA also noted other irreg-

ularities at the ministries of Education, Interior, and Electricity. The actual number of corruption cases was generally considered to be significantly higher than what was reported by COCA.

During the year, for the first time, parliament actively challenged the executive in a number of high-profile corruption cases. These included a 2004 oil scandal for the allegedly illegal sale of government property to the Yemen Petroleum Company. Petty corruption was widely reported in nearly every government office. Job candidates are often expected to purchase their positions. Tax inspectors were reported to undervalue their assessments and pocket the difference. Many government officials received salaries for jobs they did not perform or multiple salaries for the same job.

The law requires a degree of transparency and public access to information, and the Press and Publications Law provides journalists with some access to government reports and information; however, in practice the government offered few procedures to ensure transparency. The government provided limited information on Web sites; however, most citizens did not have access to the Internet.

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

A number of domestic and international human rights groups generally operated without government restriction, investigation and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views; however, NGOs reported there was often a lack of response to their requests. The Law for Associations and Foundations regulates the formation and activities of NGOs. During the year, the MHR sponsored several initiatives to further cooperation with local NGOs. On August 17, the MHR released a National Human Rights Report to local NGOs and urged them to publish their own findings and recommendations shadowing the report.

Several domestic human rights NGOs continued to operate throughout the year. Groups included the Human Rights Information and Training Center, the National Organization for Defending Rights and Freedoms, the Arab Foundation for Supporting Women and Juveniles, and the Civic Democratic Foundation. Although some NGOs were supported by the government or ruling party, others were clearly supported by opposition parties or were fully independent. A few NGOs practiced self-censorship. Some ministries reportedly harassed NGOs critical of the government by registration and funding criteria (see section 2.b.). At times the government met with domestic NGO monitors and responded to inquiries particularly in matters relating to prisoners. Domestic NGOs complained that the government was significantly less responsive in matters concerning PSO detainees.

The government gave AI, Human Rights Watch, the Parliament of the European Union, and the Committee to Protect Journalists access to officials, records, refugee camps, and prisons (see section 1.c.). AI visited the country several times during the year. The ICRC maintained a resident representative to inspect prisons during the year, although access to PSO prisons was restricted. During the year AI and Freedom House International published reports on the country's human rights record during 2004. The ICRC also issued a report on its 2004 activities in the country. In September the government responded to the AI report.

The Ministry of Human Rights, established in 2003, attempted to raise awareness of human rights via public information campaigns, training of human rights activists and security forces, and participation in numerous conferences. Through a newly established complaint mechanism, the ministry resolved an unknown number of human rights cases out of approximately 1,200 submissions, primarily through coordination and correspondence with other ministries and human rights NGOs. Observers concluded that the new system was operational and beginning to show a positive effect. During the year the MHR also sponsored training of over 300 police officers across the country and established a Human Rights Information Center for the general public to raise human rights awareness.

The parliament's committee on human rights was largely inactive during the year. Members complained the committee did not operate independently due to personal conflicts of interest by its leadership. During the year the committee continued to work on prison conditions, torture, and child trafficking. In 2004 one committee report on prison conditions was discussed in parliament. In July 2004 the committee issued an unofficial report on child trafficking that has still not been issued to the full parliament.

The Majlis as-Shura also has a committee on human rights. During the year that committee issued reports on the rule of law and the UNDP Human Development report and conducted meetings with different NGOs to discuss human rights developments in the country.

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

The law provides for equal rights and equal opportunity for all citizens; however, discrimination based on race, gender, and disability existed. Entrenched cultural attitudes often limited women's ability to enjoy equal rights.

*Women.*—The law provides for protection against violence against women; however, the provision was rarely enforced. Although spousal abuse occurred, it generally was undocumented. Violence against women and children was considered a family affair, and usually not reported to the police. Due to social norms and customs, an abused woman was expected to take her complaint to a male relative (rather than the authorities) to intercede on her behalf or provide her sanctuary if required. A small shelter for battered women in Aden assisted victims, and telephone hotlines operated with moderate success in Aden and Sana'a.

The law criminalizes rape; however, it was a problem. The punishment for rape is imprisonment up to 15 years improvement; however, it was seldom imposed.

The press, women's rights activists, and the MHR continued to investigate or report on violations of women's rights. During the year, NGOs, in conjunction with each other and the MHR, sponsored several women's rights conferences dealing with issues such as violence against women, honor killings, and increasing the political representation of women. In May the Women's Forum for Research and Training held a workshop on eliminating violence against women and changing discriminatory laws. From December 3 to 5, the MHR sponsored a regional conference on women's rights in the Arab world. More than 300 government and civil society representatives from all over the Middle East attended.

The penal code allows leniency for persons guilty of committing a "crime against honor," a violent assault or killing committed against females for perceived immodest or defiant behavior. Legal provisions regarding violence against women state that an accused man should be put to death for killing a woman. However, a husband who kills his wife and her lover may be fined or imprisoned for a term of one year or less.

The law prohibits female genital mutilation (FGM); however, it was practiced to a limited degree. The prevalence of the practice varied substantially by region. Government health workers and officials actively discouraged the practice. The Yemeni Women's Union collaborated with local religious leaders to educate society on the negative health consequences of FGM.

Prostitution is illegal; however, it was a problem. The punishment for prostitution is imprisonment of up to three years or a fine. Mostly Iraqi and other foreign women continued to travel to the country to work in the sex industry (see section 5, Trafficking).

The country is a destination for the trafficking for sexual exploitation of foreign women, and there were credible reports of trafficking of foreign women during the year (see section 5, Trafficking).

There are no laws prohibiting sexual harassment; however it was a problem in the workplace.

The social custom and local interpretation of Shari'a discriminated against women. Men were permitted to take as many as four wives, although very few did so. By law the minimum age of marriage is 15 years; however, the law was not widely enforced, and some girls married as early as age 12 (see section 5, Children).

Husbands may divorce wives without justifying their action in court. A woman has the legal right to divorce; however, she must provide a justification, and there are a number of practical, social, and financial negative considerations. A 2004 presidential decree abolished the law stating that the wife must obey the husband.

Women who seek to travel abroad must customarily obtain permission from their husbands or fathers to receive a passport, and to travel (see section 2.d.). Male relatives were expected to accompany women when traveling internationally; however, enforcement of this requirement was not consistent. Some women reported that they were able to travel freely without male accompaniment.

Some interpretations of Shari'a prohibit Muslim women from marrying a non-Muslim man; however a Muslim man is allowed to marry a non-Muslim woman. Women do not have the right to confer citizenship on their foreign-born spouses; however, they may confer citizenship on children born of foreign-born fathers if the father dies or abandons the child. The foreign wife of a male citizen must remain in the country for two years to obtain a residence permit.

According to a MOI regulation, any citizen who wishes to marry a foreigner must obtain the permission of the ministry. A woman wishing to marry a foreigner must present proof of her parents' approval to the MOI. A foreign woman who wishes to marry a male citizen must prove to the ministry that she is "of good conduct and behavior" and "is free from contagious disease."

During the year there were reports that on occasion female judges, lawyers, and clients were refused entry into court. Female judges and prosecutors were also discriminated against in the workplace. During the year the MOJ appointed women as the head of four juvenile and one general court. Many female judges were assigned "without portfolio," where they served in staff positions in a ministry or with the attorney general's office.

The government continued to support women's rights as exemplified by local law and the expansion of the public role of women. The president strongly encouraged women to vote and created a special office to address gender equality in the electoral process (see section 3). The government also supported several NGO-sponsored conferences to increase the role of women in political life.

According to 2003 government statistics, approximately 83 percent of women were illiterate, compared with approximately 43 percent of men. The fertility rate was 6.67 children per woman. Most women had little access to basic health care.

In general women in the south, particularly in Aden, were better educated and had somewhat greater employment opportunities than their northern counterparts. However, since the 1994 war of secession, the number of women in government in the south has declined, due to cultural pressure from the north, as well as stagnation of the economy. According to the UNDP, female workers accounted for 23 percent of the paid labor force.

The law stipulates that women are equal to men in conditions of employment and employment rights; however, female activists and NGOs reported that discrimination was a common practice in both the public and private sectors. Mechanisms to enforce equal protection were weak or nonexistent.

The government-sponsored National Women's Committee (NWC) completed a comprehensive review of discriminatory laws against female citizens and conducted a seminar with parliamentarians to discuss proposed legislative changes. The NWC also educated 337 police officers on women's rights issues.

The Civic Democratic Initiatives Support Foundation worked with women across the country to enhance their role in local councils and ensure gender equity in the distribution of local services. The Women's Forum for Research and Training held a workshop on eliminating violence against women and changing discriminatory laws. The Society for the Development of Women and Children conducted a media campaign to encourage women to obtain identification cards, thereby allowing women access to government services and the legal system without relying on their husbands.

There were a number of NGOs working for women's advancement, including: the Social Association for Productive Families, which promoted vocational development for women; the Women and Children's Department of the Center for Future Studies, which organized seminars and published studies on women and children; the Woman and Child Development Association, focused on health education and illiteracy; the Yemeni Council for Motherhood and Childhood, which provided micro credit and vocational training to women; and the Zahara Women's Association for Welfare, which conducted voter education and grassroots education.

*Children.*—While the government asserted its commitment to children's rights, it lacked the resources necessary to ensure adequate education, health care, and welfare services for children. The law provides for universal, compulsory, and free education from age 6 to 15 years; however, compulsory attendance was not enforced. Public schooling was available to children through the secondary school level. Attendance was mandatory through the ninth grade. Many children, especially girls, did not attend primary school. According to a 2003 UNDP report, average student attendance in primary schools was 76 percent for boys and 45 percent for girls. In rural areas 52 percent of children attended school, whereas the rate in urban areas was 81 percent.

The law provides for free medical care for citizen children; however, this was not always enforced. Malnutrition was common. According to statistics gathered during the year, the infant mortality rate was 61.5 deaths per 1,000 births. Male children received preferential treatment and had better health and survival rates.

FGM was performed in some cases on girls (see section 5, Women).

Child marriage was a significant social problem in the country. The law requires that a girl be 15 years of age to marry; however, it was not enforced, and marriages of girls as young as age 12 occurred. The UN Children's Fund (UNICEF) estimated that approximately 41 percent of citizen children under the age of 15 were married. According to the Ministry of Labor and Social Affairs, the government has not yet embarked on public awareness campaigns on the negative effects of child marriage because of the cultural sensitivity of the issue.

The law does not prohibit child abuse, and it was a problem; however, reliable data on the extent of child abuse was insufficient.

Child labor was a problem. The Child Rights Law prohibits child labor; however, the law has not been implemented, and children as young as four years of age worked in workshops, agriculture, or as street vendors (see section 6.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were credible reports of trafficking in women and children. The law, which does not differentiate between children or adult victims, allows for a prison sentence of up to 10 years for anyone convicted of trafficking in persons. Other laws forbid and severely punish kidnapping, sexual assault, and the facilitation of prostitution. The Child Rights law mandates the protection of all children from economic and sexual exploitation.

Trafficking was a relatively new phenomenon in the country, and there were no reliable statistics available. During the year there were reports of foreign Arab women, particularly Iraqis, who were possibly trafficked to the country for the purpose of prostitution. They are located primarily in the southern port city of Aden and in Sana'a. As the problem of sex trafficking was new, authorities were unable to provide information on the scope and methods of sex trafficking, but they suspected that women were brought or trafficked to the country by organized syndicates. In 2004 the government took steps to address this problem by instituting a new visa requirement for Iraqi citizens traveling to the country.

According to a local human rights NGO, it was possible that citizen women were trafficked from their homes to other regions within the country for the purposes of prostitution, including those under the age of legal consent. The same NGO also believed that such prostitution may have been organized and speculated that low-level government and security officials operated or were complicit in sex trafficking within the country.

There were no official statistics available on the number of children trafficked out of the country. Press reports claimed that children mostly from northern governorates were trafficked out of the country to work as street beggars, vendors, or domestic help in Saudi Arabia at a rate of approximately 200 children per week. Children were trafficked by individuals, other children, and loosely organized syndicates who helped them cross the border by donkey, automobile, or foot.

Government investigations revealed that extreme poverty was the primary motivation behind child trafficking and that the victims' families were almost always complicit. The traffickers were almost always well known by, if not related to, the family; parents were either paid or promised money in exchange for allowing their children to be trafficked. Many cases were also later discovered to be instances of illegal immigration.

During the year the government significantly increased its efforts to combat child trafficking. MOI security forces intensified patrolling the country's border with Saudi Arabia, resulting in the arrest of several traffickers. At least 14, up from 2 in 2004, traffickers of children were successfully convicted and sentenced to prison sentences that ranged from 6 months to a year. The government, in cooperation with UNICEF and the International Organization for Migration (IOM), also trained 42 border and airport officials on identifying and preventing child trafficking. At least 14 additional traffickers were apprehended by authorities at year's end. Parliament and the MLSA sent numerous delegations to areas known as points of origin for child trafficking to investigate the problem. The MHR established a hot line for persons to report cases of child trafficking.

In January the government and UNICEF released a joint study and held a two day conference that examined the problem of trafficking in children. UNICEF also helped the government establish a reception center in the northern part of the country for repatriated trafficked children. By year's end, the center received over 300 repatriated children.

To prevent child trafficking, the MLSA conducted a campaign in areas known as points of origin for child trafficking. The campaign warned potential victims' parents against the dangers of allowing their children to work in Saudi Arabia.

*Persons with Disabilities.*—There was discrimination against persons with mental and physical disabilities in education and employment. Several laws mandate the rights and care of the disabled. A law mandates the acceptance of persons with disabilities in universities, exempts them from paying tuition, and requires that schools be made more accessible to persons with disabilities; however, it was unclear to what extent these laws have been implemented. Other laws mandate that 5 percent of government jobs be reserved for persons with disabilities. No national law mandates the accessibility of buildings for persons with disabilities. For the second consecutive year, public awareness regarding the need to address the concerns of persons with disabilities appeared to be increasing.

During the year the Handicapped Society, the Challenge Society, the Yemeni Development Foundation, Al-Saleh Social Establishment, and the Islamic World Handicap and Training Council provided assistance to persons with disabilities, including rehabilitation assistance, vocational training, cultural and sports activities, and collaborative workshops on how to address the issue of disabilities in the country. The government's Social Fund for Development and Fund for the Care and Rehabilitation of the Disabled, administered by the MLSA, provided limited basic services and funded over 60 NGOs to assist persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Akhdam (an estimated 2 to 5 percent of the population) were considered the lowest social class. They lived in poverty and endured persistent social discrimination. The government's Social Fund for Development provided basic services to assist the group.

Human rights groups have reported that some immigrants of African origin had difficulty in securing MOI permission to marry citizens (see section 1.f.).

Tribal violence continued to be a problem during the year, and the government's ability to control tribal elements responsible for acts of violence remained limited. Tensions over land or sovereignty in particular regions, which periodically escalated into violent confrontations, continued between the government and a few tribes.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that citizens have the right to form and join unions; however, this right was restricted in practice.

The law permits trade unions to organize. Although not required by law, all current unions are federated within the General Federation of Trade Unions of Yemen (GFWTUY), a national umbrella organization. The GFWTUY claimed approximately 350 thousand members in 14 unions and denied any association with the government; however, it worked closely with the government to resolve labor disputes through negotiation.

The politicization of unions and professional associations continued to hamper the right of association. In some instances, the GPC ruling party attempted to control professional associations by influencing internal elections or placing its own personnel, usually tied with the government, in positions of influence in unions and professional associations.

The law dictates that labor unions can only be dissolved by court order or its own members; however, the government did not respect this right in practice. In May 2004 the government unilaterally dissolved and seized the assets of the Sana'a Medical Association after its members elected a chairman associated with the opposition Islah party. Subsequently the government formed an alternative medical association and threatened former members with judicial action if they associated with the dissolved union. By year's end some association members continued attempts at reorganizing.

The law generally protects employees from antiunion discrimination. Employers do not have the right to dismiss an employee for union activities. In June 2004 technicians working for the national airline, Yemenia, were restricted from unionizing. Several technicians and union officials reported that persons, likely associated with the PSO, removed union literature from public notice boards and prevented some technicians from reaching ballot boxes to participate in a unionization vote in August 2004. A deputy minister for unions was removed from office for supporting the technicians' efforts. His replacement subsequently invalidated the election results on the basis that the elections were suspect. Technicians reported that they were regularly harassed at work and have been blocked by Yemeni airline officials from seeking employment with other regional carriers.

Employees may appeal any disputes, including cases of antiunion discrimination, to the MLSA. Employees also may take a case to the Labor Arbitration Committee, which is chaired by the MLSA, and is composed of an employer representative and a GFWTUY representative. Such cases often were disposed favorably toward workers, especially if the employer was a foreign company. Neither GFWTUY nor the MLSA were able to provide statistics on how many unionized employees used this system in during the year.

*b. The Right to Organize and Bargain Collectively.*—The labor law provides workers, except public servants, foreign workers, day laborers, and domestic servants, the right to organize and bargain collectively without government interference. The government permitted these activities; however, at times it sought to influence them by placing its own personnel inside groups and organizations. The MLSA has veto power over collective bargaining agreements, a practice criticized by the International Labor Organization (ILO). Several such agreements existed. Agreements may be invalidated if they are "likely to cause a breach of security or to damage the economic interests of the country." Unions may negotiate wage settlements for

their members, and may resort to strikes or other actions to achieve their demands. Public sector employees must take their grievances to court.

The labor law provides unions the right to strike only if prior attempts at negotiation and arbitration fail, and workers exercised this right by conducting legal strikes. The proposal to strike must be submitted to at least 60 percent of all concerned workers, of whom 25 percent must vote in favor. Strikes for explicit "political purposes" were prohibited. There were reports of peaceful strikes during the year.

In March university professors throughout the country staged a series of peaceful strikes to demand higher wages. The strikes, which continued intermittently throughout the year, were suspended when the government agreed to examine the situation.

On March 4, the Yemeni Physicians and Pharmacists Syndicate (YPPS) staged a nationwide strike demanding a pay increase. The strike was suspended on March 4 after the government agreed to fulfill the demands of the syndicate within three months. The syndicate continued to strike intermittently throughout the year after it claimed that the government failed to follow through on its pledge.

On October 29, textile workers demonstrated in front of the Public Textile Corporation, a state-owned company located in Sana'a, demanding to be paid back wages. The demonstrations, which continued intermittently throughout the year, were also conducted in front of the parliament and cabinet buildings. The workers' demands were met after the minister of industry and trade and parliament intervened.

There were reports that private sector employers discriminated against union members through transfers, demotions, and dismissals.

There are no export processing zones in operation.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Child Rights Law prohibits child labor; however, it has not been effectively implemented.

The established minimum age for employment was 15 years in the private sector and 18 years in the public sector. By special permit, children between the ages of 12 and 15 years could work. The government rarely enforced these provisions, especially in rural and remote areas. The government also did not enforce laws requiring nine years of compulsory education for children.

Child labor was common, especially in rural areas. Many children were required to work in subsistence farming due to family poverty. Even in urban areas, children worked in stores and workshops, sold goods and begged on the streets. Many children of school age worked instead of attending school, particularly in areas in which schools were not easily accessible.

The Child Labor Unit at the Ministry of Labor was responsible for implementing and enforcing child labor laws and regulations; however, the unit's lack of resources hampered enforcement.

The Ministry of Labor estimated that there were close to half a million working children, ages 6 to 14 years, and that working children equaled 10 to 15 percent of the total work force. The government was an active partner with the ILO's International Program to Eliminate Child Labor. During the year, this program offered remedial education, vocational training, counseling, and reintegration of child laborers into schools. In September 2004 the government entered into a grant agreement with a foreign government aimed at combating the worst forms of child labor in the country.

*e. Acceptable Conditions of Work.*—There was no established minimum wage for any type of employment. The labor law provides equal wages for workers and civil servants. Private sector workers, especially skilled technicians, earned a far higher wage. The average daily wage did not provide a decent standard of living for a worker and family. The minimum civil service wage during the year did not meet the country's poverty level.

The law specifies a maximum 48-hour workweek with a maximum 8-hour workday; however, many workshops and stores operated 10- to 12-hour shifts without penalty. The 35-hour workweek for government employees was 7 hours per day from Saturday through Wednesday.

The Ministry of Labor is responsible for regulating workplace health and safety conditions. The requisite legislation for regulating occupational health is contained in the labor law; however, enforcement was weak to nonexistent. Many workers regularly were exposed to toxic industrial products and developed respiratory illnesses. Some foreign-owned companies and major manufacturers implemented higher health, safety, and environmental standards than the government required. Work-

ers have the right to remove themselves from dangerous work situations and may challenge dismissals in court. These laws were generally respected in practice.



## SOUTH ASIA

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### AFGHANISTAN

Afghanistan is an Islamic republic with a population of approximately 30 million. In October 2004 Hamid Karzai was elected president in the country's first presidential election under its new constitution, ratified in January 2004. On September 18, the country held its first parliamentary elections in over two decades. While neither the presidential nor the parliamentary elections fully met international standards for free and fair elections, citizens found the parliamentary elections to be credible, and the presidential elections acceptable. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority.

Afghanistan's human rights record remained poor due to weak central institutions, a deadly insurgency, and the country's ongoing recovery from two decades of war. While the government struggled to expand its authority over provincial centers, a few areas remained under the control of regional commanders. There continued to be instances in which security and factional forces committed extrajudicial killings and torture. Extensive reporting of human rights abuses led to increased action against abusers. The following human rights problems were reported:

- extrajudicial killings
- torture
- poor prison conditions
- official impunity
- prolonged pretrial detention
- abuse of authority by regional commanders
- restrictions on freedoms of press, religion, movement, and association
- violence and societal discrimination against women and minorities
- trafficking in persons
- abuse of worker rights
- child labor

Terrorist attacks, armed insurgency, and violence continued during the year. Taliban and other antigovernment forces threatened, robbed, attacked, and occasionally killed local villagers, political opponents, and nongovernmental organization (NGO) workers. Increased Taliban, al-Qa'ida, and other antigovernment activity, particularly in the south and southeast, compounded security challenges faced by the government. UN agencies and NGOs temporarily cancelled or curtailed their activities at various times during the year.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports of politically motivated or extrajudicial killings by the government or its agents. For example, in the spring, Kabul's police chief allegedly tortured and killed a civilian, but it was unknown whether there was an investigation. In December police beat and killed a detainee at the Kabul police station. The lack of an effective police force, poor infrastructure and communications, instability, and insecurity hampered investigations of unlawful killings, bombings, or civilian deaths, and there were no reliable estimates of the numbers involved.

There were no updates to the January 2004 hanging of four alleged bandits in Farah, the March and April 2004 killings of four detainees in Herat, or the August 2004 investigation of the 17 bodies found at the Shindand market place.

(2099)

The United Nations Mine Action Center for Afghanistan (UNMACA) reported that landmines killed 132 and wounded 647 persons in the first 11 months of the year (see section 1.g.).

Terrorists and insurgents, including Taliban, al-Qa'ida, and Hizb-e-Islami Gulbuddin, killed numerous civilians during their attacks. There were reports that the Taliban and its allies summarily executed NGO workers and other persons. Attacks on international organizations, international aid workers and their local counterparts, and foreign interests and nationals increased significantly during the year and prompted some organizations to leave (see sections 1.g. and 4).

Antigovernment forces attempted to disrupt the election process across the country, targeting candidates, election workers, and voters. In September, in Balkh, unknown assailants shot and killed Mohammad Ramazan, a candidate for parliament who was leading in the preliminary vote count, and a bodyguard. Also in September unknown assailants abducted candidate Abdul Hadi from his home in Helmand Province and killed him. The Taliban claimed responsibility for both incidents (see section 3). Religious figures also faced threats and violence. In October and November five progovernment mullahs were killed for speaking publicly against the Taliban and al-Qa'ida (see section 2.c.).

In September unknown assailants shot and killed a popular Afghan singer along with six other musicians in Jowzjan. The incident was believed to be an attack against the performance of music, as no money, equipment, or cell phones were taken.

On April 29, residents of a village in Badakhshan Province killed Amena, a 29-year-old woman, for allegedly committing adultery. She was stoned to death without having been detained. Authorities subsequently charged and imprisoned Amena's mother, brother, and 13 other villagers on murder charges for taking part in the stoning after the sentence had been decreed by the village religious leader and local commander, who were also taken into custody but later released.

*b. Disappearance.*—Abductions and disappearances occurred during the year. There continued to be reports of abduction by Taliban, allied militias, and unknown assailants. In April members of the Taliban abducted and killed a British contractor. In May alleged members of a criminal gang abducted Italian aid worker Clementina Cantoni and released her 24 days later. Authorities sentenced 1 of the kidnappers to 20 years imprisonment for Cantoni's kidnapping and sentenced 2 others to death for the kidnapping and an unrelated killing (see section 1.g.).

There were no updates in the January 2004 abduction of an NGO driver, the 2003 abduction of a commander in Herat, or the abduction of many women and girls taken by the Taliban from 1998 to 2001.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports of abuses. For example, credible observers reported that local authorities in Herat, Helmand, and other locations routinely tortured and abused detainees. Torture and abuse consisted of pulling out fingernails and toenails, burning with hot oil, sexual humiliation and sodomy.

In Kabul, prisoner Abdul Rahman alleged that local authorities beat him with rubber hoses and wood batons during his four-month-detention.

According to the UN, police in the northern district of Faryab reported that a commander and former district governor severely beat a group of teachers and detained them in his private jail during the year.

NGOs reported that security forces used excessive force during their fight against Taliban and al-Qa'ida remnants, including looting, beating, and torturing civilians. Violence and instability hampered relief and reconstruction efforts in different parts of the country and led to numerous human rights abuses.

On September 23, Human Rights Watch (HRW) reported that security forces arbitrarily detained civilians and committed cruel, inhuman, and degrading acts. This claim was based on reports HRW received from family members of detained civilians and interviews conducted with released detainees.

In March *Harper's Magazine* reported that in May 2004 a 21-year-old citizen was taken to jail in Gardez, masked with a bag, and had his hands tied. Authorities poured cold water over him and punched and beat him with sticks. The man claimed that he was threatened with an attack by dogs, subsequently bitten and scratched by dogs, and denied food. The man alleged that he was held for seven or eight nights in Gardez before being taken to another facility and tortured nightly for at least eight days, before being transferred to another facility.

*Prison and Detention Center Conditions.*—Prison conditions remained poor, and prisons were severely overcrowded and unsanitary. Prisoners shared collective cells and were not sheltered adequately from severe winter conditions. Living conditions

did not meet international standards, and conditions in women's facilities were worse than in men's facilities. Some prisons held more than twice their capacity. In district prisons, shipping containers were frequently used when other structures were unavailable. Prisoners were reportedly beaten, tortured, and denied adequate food. On October 10, the Afghanistan Independent Human Rights Commission (AIHRC) reported that inadequate food, poor sanitation facilities, insufficient blankets, and infectious diseases were common in the country's prisons.

There were continued reports of private and illegal prisons. The AIHRC claimed that the country's intelligence agency ran at least two such prisons, and there were allegations that private detention facilities existed around Kabul and in northern regions of the country. The AIHRC claimed it closed 36 such detention centers over the past 3½ years. During the year AIHRC allegedly discovered private prisons in Faryab and Mazar-e-Sharif. HRW and other organizations reported the presence of secret or unofficial prisons in 2004.

According to the AIHRC, six prisoners died from natural causes while incarcerated during the year.

More than 6 thousand convicts, including approximately 219 women, were held in 34 government-run prisons in 8 provinces across the country. The government reported 31 active rehabilitation centers for juveniles. Approximately 14 detention centers housed female prisoners. Children under 12 years of age were incarcerated with their mothers. Not all juveniles (under 18 years) were detained in juvenile correctional facilities. For example, in Pul-e-Charkhi Prison, many juveniles were detained with adult prisoners. In general, juveniles charged with murder were detained in adult facilities; however, if space permitted, they were assigned to a separate area within the facility. Prisoners waiting for trial generally were separated from the rest of the inmate population.

The International Committee for the Red Cross (ICRC) had permission to visit all prisons under government control, and the ICRC conducted such visits during the year; however, the ICRC lacked full access to some prisoners. The AIHRC monitored prison conditions regularly during the year, independent of the Ministry of Justice; however, the AIHRC reported that in some areas, their representatives were not granted full access or were required to provide additional proof of authorization. The ICRC did not have access to secret or unofficial prisons.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest or detention; however, both remained serious problems. Justice was administered on an intermittent basis according to a mixture of codified law, Shari'a (Islamic law), and local custom.

*Role of the Police and Security Apparatus.*—The Afghan National Police (ANP), under the Ministry of Interior, has primary responsibility for internal order; however, some local and regional commanders maintained considerable power since the government did not control security nationwide. The UN extended the North Atlantic Treaty Organization's (NATO) mandate through October 13, and NATO retained command of the International Security Assistance Force (ISAF) in Kabul. NATO reviewed and renewed its mandate annually. Human rights groups and detainees reported that local police extorted bribes from civilians in exchange for their release from prison or to avoid arrest.

Corruption and official impunity remained pervasive problems. The international community worked with the government to develop training programs and internal investigation mechanisms to curb security force corruption and abuses. In November the government created a Professional Standards Unit (or Internal Affairs Unit) to help investigate offenses. The government, with foreign assistance, was developing a model police station in Kabul to exemplify best practices and train police. The AIHRC provided human rights training to members of the ANP.

*Arrest and Detention.*—Judicial and police procedures and practices for taking persons into custody and bringing them to justice followed no established code and varied depending on the area and local authorities. Some areas had a more formal judicial structure than others. The authorities did not respect limits on lengths of pretrial detention. The law provides for access to legal counsel, the use of warrants, and bail; however, all three were inconsistently applied. There were no confirmed reports of political detainees.

Arbitrarily lengthy pretrial detention remained a problem. The United Nations Human Rights Commission (UNHRC) reported that arbitrary and prolonged detentions were a frequent occurrence throughout the country. The AIHRC received several hundred reports of lengthy pretrial detention during the year. According to the law, police can detain suspects for up to 72 hours; primary and secondary courts can detain for up to 2 months; and the final court can detain for up to 5 months. The country's law limited pretrial detention to 9 months; however, there were docu-

mented cases where suspects were held for longer periods. For example NGOs reported that prison authorities detained individuals for over a year without charging them. There were credible reports that police continued to detain prisoners in Kabul and Ghazni after they were found innocent.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but in practice the judiciary was inefficient and subject to influence and corruption. The government, in accordance with Islamic principle and international standards and with assistance from the international community, continued to work on reestablishing a functioning nationwide judicial system. The courts, however, were hindered by a lack of qualified judicial personnel, and judges often based their judgments on their personal understanding of Islamic law and tribal codes of honor. Pressure from public officials and the families of accused persons also threatened judicial impartiality. Trials were usually public, and while juries were not used, decisions made through the shura system were made collectively by groups of local elders. Defendants have the right to be present and to consult with an attorney when resources allow. Defendants have the right of appeal.

Many municipal and provincial authorities relied on some interpretation of Islamic law and traditional tribal codes of justice.

In cities, courts decided criminal and civil cases. The Supreme Court was located in Kabul. A National Security Court tried terrorist and other cases, although it was unclear how it functioned. In December the president passed by decree an antinarcotics law that formally created a separate central court for narcotics prosecutions.

In rural areas local elders and shuras (community councils) were the primary means of settling criminal matters and civil disputes; they sometimes allegedly also levied unsanctioned punishments.

The Ministry of Justice focused on judicial reform, but numerous problems remained. The judicial system lacked the capacity to handle the large volume of new and amended legislation.

*Trial Procedures.*—Court procedures did not meet internationally accepted standards for fair trials. The administration and implementation of justice varied in different areas of the country. Defendants have the right to an attorney under the law, but this right was inconsistently applied. Citizens' lack of awareness of their constitutional rights was a problem, and there was no functioning public defender system. Juries were not used, and defendants were not allowed to confront or question witnesses. Court decisions could be appealed. The courts reportedly heard cases in sessions that lasted only a few minutes. In cases involving murder and rape, judges generally sentenced convicted prisoners to execution, although relatives of the victim could instead choose to accept other restitution or could enforce the verdict themselves. Under the new constitution, capital punishment is conditional upon approval of the president. Local elders and shuras sentenced persons to unsanctioned punishment including flogging or death by stoning, as well as ordering, in murder cases, the defendant to provide young girls in marriage to the victims' family. In such proceedings, the accused typically had no right to legal representation, bail, or appeal. The government enforced Shari'a, which discriminated against women (see section 5, Women). Approximately 80 percent of all disputes went to shuras for decisions.

*Political Prisoners.*—There were no confirmed reports of political detainees; however, there were reports that a number of regional commanders affiliated with the government held political prisoners. There were no reliable estimates of the numbers involved. Political prisoners were reportedly not given the same protection as other detainees.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such interference; however, there were no legal protections for victims, and police officials forcibly invaded and looted the homes and businesses of civilians with impunity. In April local police invaded the homes of several NGO personnel and international businessmen, harassed and threatened them, and stole their valuables. In April 2004 troops from the Junbesh and Jamiat parties' military wings looted houses during fighting east of Mazar-e-Sharif.

Forced resettlement for safety reasons occurred during the year.

The law provided for wiretapping.

Police often detained women at the request of family members for defying the family's wishes on the choice of a spouse, or for other "moral" offenses. An unknown number of women were imprisoned for these reasons. Some women were in detention centers because they were runaways (see section 5, Women).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—During the year continued internal conflict and the use of excessive force caused the deaths of civilians, property damage, and the displacement of residents.

Interfactional fighting between regional commanders, persistent Taliban and al-Qa'ida activity, and criminal activity resulted in unlawful killings. Militants targeted and killed foreigners and local NGO employees.

In November in Nimroz Province, militants abducted and killed Ramankutty Maniappan (see section 1.b.).

On August 14, in Kandahar, a woman was killed in an explosion at a women's market.

The Taliban beheaded several individuals throughout the year in Helmand and Ghazni provinces for allegedly spying for a foreign country. In November the Taliban kidnapped and killed a road worker in Nimroz Province in an apparent attempt to pressure aid groups to leave. After initially accepting responsibility, the Taliban later denied involvement.

On September 28, citizens from Sharan district in Paktika Province found bodies of 500 hundred police and soldiers in a mass grave. Members of the Taliban and al-Qa'ida allegedly killed the soldiers and police in 1998.

During the year antigovernment elements attacked progovernment religious leaders (see section 2.c).

On May 16, unknown assailants kidnapped and held captive a foreign aid worker for 24 days. On June 28, she was released unharmed in Kabul. The case was under investigation and remained open at year's end.

In December 2004 unknown assailants kidnapped three Turkish construction workers. The kidnappers killed one worker and released two others. The case remained open at year's end.

In July 2004 in Uruzgan province, alleged members of the Taliban beheaded 15 men, 13 of whom belonged to the Hazara tribe, a historical enemy of the Taliban.

During the year battles between rival tribes and local commanders resulted in numerous civilian casualties. In May, fighting between supporters of two rival warlords killed one citizen and wounded five others.

Militants also targeted civilians and election officials in a campaign to derail national elections (see section 3).

Violence and instability hampered relief and reconstruction efforts in different parts of the country. There were reports by NGOs that some local commanders charged them for the relief supplies they were bringing into the country. The delivery of assistance was also limited by the difficulties in moving relief goods overland to remote areas.

Estimates of the remaining number of landmines planted during and after the Soviet occupation ranged from 450 thousand, according to the Halo Trust, to 7 million, according to the UN. The most heavily mined areas were the provinces bordering Iran and Pakistan. The landmines and unexploded ordnance caused deaths and injuries, restricted areas available for cultivation, and impeded the return of refugees to mine-affected regions. During the year the UNMACA recorded 779 people killed or injured by mines.

With funding from international donors, the UN organized and trained mine detection and clearance teams, which operated throughout the country. More than 1.5 million refugees and internally displaced persons (IDPs) returned to areas cleared of mines and unexploded ordnance. UN agencies and NGOs conducted many educational programs and mine awareness campaigns for women and children in various parts of the country.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, there were instances of governmental intimidation of journalists to influence their reporting. The law prohibits information that "could mean insult to the sacred religion of Islam and other religions." The ambiguity over what was considered offensive material offered the potential for restricted press freedom.

The independent media were active and publicly reflected differing political views, although the extent varied from region to region. The government owned at least 35 publications and most of the electronic news media. Many other newspapers were published only sporadically, and many were affiliated with different provincial authorities. Factional authorities tightly controlled media in some parts of the country, and the degree of freedom of expression varied significantly between regions. The foreign media were covered under the freedom of speech law; however, they were prohibited from commenting negatively on Islam and from publishing materials that were considered a threat to the president.

During the year, members of the intelligence service intimidated and threatened journalists. Threatening calls and messages against media organizations also were common. For example in mid-January, an Iranian radio station reported that the Herat government banned a weekly newspaper, *Payam-e-Hambastagi*, allegedly for supporting Ismail Khan, the former governor of Herat. Radio Bamyan, an independent radio station, received occasional threats because the station provided programming deemed un-Islamic.

While some independent journalists and writers published magazines and newsletters, circulation largely was confined to Kabul, and many publications were self-censored. According to the NGO Reporters Without Borders, many persons listened to the dozen international stations that broadcast in Dari or Pashto. The BBC, Voice of America, Radio Liberty, and Radio Free Afghanistan were available throughout the country. There were approximately 300 print publications, 40 radio stations, and several television stations in the country. In September 2004 business leaders inaugurated the first independent radio station established entirely by private sector funds in Ghazni province. At least 32 other community-based independent radio stations had been created.

Authorities subjected journalists to harassment, intimidation, and violence during the year. In June the Media Commission prosecuted Massood Qiam, a Tolo TV journalist, for defaming the country's chief justice. The charges were later dropped at the request of the minister of information and culture. In September authorities beat two *Sada-e-Afghan* reporters and detained them for eight hours for allegedly taking illegal pictures and not having an invitation to the event they were attending. No actions were taken against the members of the president's security force. On December 21, authorities released journalist Ali Mohaqiq Nasab from jail with a suspended six-month sentence. On October 1, police arrested Nasab and on October 22, convicted him for publishing un-Islamic materials, specifically for describing the harsh punishments imposed on individuals accused of adultery and theft, as well as the right of Muslims to convert to other religions (see section 2.c.). In June 2004 authorities in Herat interfered in the functioning of an independent women's community radio station, Radio Sahar. Authorities resolved the situation through negotiation and dialogue, according to *Internews*. In August 2004 the Ministry of Information and Culture announced the creation of a commission of religious clergy to monitor the media, but the commission's authority to censor content was not clear.

Other nongovernmental actors also interfered in the operation of journalists. In September unknown assailants kidnapped two reporters accompanying a female candidate for the parliament in Nuristan province, but they managed to escape after a six-day detention.

Authorities restricted academic freedom. In May Herat University expelled two students and had them arrested following a classroom discussion in which they debated the role of Christianity in Muslim society. The students were detained for more than three months until the AIHRC intervened and had both released and reinstated at the university. However, police did not drop charges against both students, and at year's end the case remained ongoing.

Unlike in previous years there were no reports that government forces prohibited music, movies, and television on religious grounds. Journalistic self-censorship was common in many areas because of fear of retaliation. Cable operators provided a wide variety of channels, including Western movie and music channels. The government did not restrict the ownership of satellite dishes by private citizens.

There were no government restrictions on the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association; however, this right was restricted in practice.

*Freedom of Assembly.*—A lack of physical security and interference from local authorities inhibited freedom of assembly in areas outside Kabul.

In May, according to HRW, security forces killed 16 protesters while trying to disband violent demonstrations in several cities in response to a *Newsweek* magazine article discussing Koran desecration.

*Freedom of Association.*—The Political Parties Law obliges parties to register with the Ministry of Justice and requires political parties to pursue objectives that are consistent with the principles of Islam. Political parties based on ethnicity, language, Islamic school of thought, and region were not allowed; however, political parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security (see section 3). At year's end there were 91 registered political parties.

In 2004 in Herat Province, party activists could not conduct political activities openly because of then governor Ismail Khan's intolerance of political activities. Khan later became minister of water and energy, but it was unclear if conditions in Herat had changed.

*c. Freedom of Religion.*—The law proclaims that Islam is the “religion of the state,” but provides non-Muslim citizens the freedom to perform their rituals within the limits determined by laws for public decency and peace, although there was harassment of foreign missionaries and others. The law also declares that no law can be contrary to the beliefs and provisions of Islam. The government required all citizens to profess a religious affiliation.

Historically, the majority Sunni population discriminated against the minority Shi'a community. There were no laws forbidding proselytizing, although authorities viewed proselytizing as contrary to the beliefs of Islam, and authorities could punish blasphemy and apostasy with death.

Public school curricula included religious subjects, and religious leaders conducted detailed religious study. Non-Muslims were not required to study Islam, and there was no restriction on parental religious teaching.

The Shi'a religious affiliation of the Hazaras historically was a significant factor contributing to their repression, and there was continued social discrimination against Hazaras (see section 5).

There were no known foreign missionaries or other non-Islamic religiously oriented organizations in the country. Conversion from Islam is punishable by death.

During the year antigovernment elements increased attacks against progovernment religious leaders. For example, on July 3, in Kandahar city, armed men killed Mulawi Mohammad Nabi Misbah, an affiliate of the Kandahar cleric council and a member of the provincial election commission. On July 13, in Lashkargah city, assailants killed Mawlawi Saleh Mohammad, head of a religious shura in Helmand Province and a well-known supporter of the electoral process. On August 3, in Helmand Province, antigovernment forces killed Mullah Zarif, who had signed a fatwa against former Taliban leader Mullah Omar.

*Societal Abuses and Discrimination.*—Sikhs and Hindus returning to the country faced difficulties in obtaining housing and land in Kabul and other provinces, and the communities reportedly continued to face acts of discrimination during the year. In the second half of the year, the government provided Sikhs and Hindus land on which to cremate their dead.

Non-Muslims faced discrimination in schools. The AIHRC received numerous reports that students belonging to the Sikh and Hindu faiths stopped attending schools due to harassment from both teachers and students, and the government had not implemented measures to protect these children.

There were no known incidents of anti-Semitism.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, certain laws limited citizens' movement. The passport law requires a woman to obtain permission from a male family member before having a passport application processed. In some areas of the country, women were forbidden by local custom or tradition to leave the home except in the company of a male relative. The law also prohibits women from traveling alone outside the country without a male relative, and male relatives must accompany women participating in the hajj. Additionally, sporadic fighting, banditry, and landmines hampered travel within the country.

Taxi, truck, and bus drivers complained that security forces and armed militants operated illegal checkpoints and extorted money and goods. While the number of such checkpoints decreased during daylight hours, their numbers increased at night, especially in the border provinces. In April local militants shot and injured two men at illegal checkpoints in Kunduz province.

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

*Internally Displaced Persons (IDPs).*—Approximately 150 thousand persons were internally displaced. During the year the UN High Commissioner for Refugees assisted the return of over 519 thousand refugees to the country; an additional 237 thousand returned spontaneously without assistance. A modest number of IDPs were also resettled.

*Protection of Refugees.*—The government has not established a system for providing protection for refugees or those seeking asylum.

Since 2002 over 4.4 million citizens have returned to the country. Women and children constituted 75 percent of the refugee population. In August, September, and October, refugees returned in large numbers to the country, as 95 percent of

the refugee camps in Pakistan closed. A fifth of these people were living without shelter at year's end. Sporadic fighting and related security concerns, as well as drought, discouraged some refugees from returning to the country.

Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands, in part because of allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s. Hazaras also found difficulty in returning to the country. In December 2004 a local leader from Karukh district in Herat blocked the return of approximately 200 Hazara refugees from Iran.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice for the first time in over 20 years on September 18, when they participated in parliamentary elections.

*Elections and Political Parties.*—In October 2004 citizens chose Hamid Karzai to be the first democratically elected president in an election that was acceptable to the majority of the country's citizens. On September 18, citizens elected 249 members of the Wolesi Jirga, the lower house of the National Assembly, in an election deemed credible by the majority of citizens. Members of the Meshrano Jirga, the upper house, were selected through presidential and provincial council nomination. There were 249 men and 68 women in the Wolesi Jirga and 102 men and 22 women in the Meshrano Jirga. Since the parliament was inaugurated on December 19, members of parliament worked together cooperatively. There is no established tradition of political parties, but political groups were being formed in the National Assembly.

AIHRC and the UN Assistance Mission in Afghanistan (UNAMA) reported that local officials tried to influence the outcome of elections. From April 19 through September 13, citizens reported more than 390 such attempts to the AIHRC/UNAMA joint verification team. For example, the Herat Provincial administration dismissed Mohammad Ibrahim Kushki, a candidate for parliament from Herat, for using his position as head of the Islamic labor union to promote his campaign and apply pressure on the local community to vote for him. Wolesi Jirga candidate Fatima Kazimiyan used her position as former head of the Bamyan Department of Women's Affairs to influence voters in her favor, but she was disqualified as candidate by the Joint Election Management Body. The Electoral Complaints Commission received 5,397 complaints during the parliamentary election season and disqualified 37 candidates (of over 6,000) from the campaign, including 3 for committing election offenses.

Militants targeted civilians and election officials in a campaign to derail national elections. A Taliban spokesman declared that all parliamentary candidates were high priority targets, and during the year antigovernment forces killed seven parliamentary candidates, two parliamentarians-elect, and at least four election workers. On June 22, unknown assailants killed a provincial council candidate from Uruzgan province. At year's end the case remained open. On August 3, unknown men opened fire on a female parliamentary candidate from Kandahar as she sat in a parked vehicle. The woman was unharmed, and no one was charged. Also in early August unknown assailants shot and injured Hawa Alam Nuristani, a female candidate, in Nuristan. She had received many death threats prior to the incident. In September the Taliban killed parliamentary candidate Mohammad Ashraf Ramazan, sparking mass demonstrations throughout Mazar-e-Sharif. While some alleged that the governor of Balkh province was involved in the assassination, three other suspects were detained for the attack. The case remained unresolved at year's end.

Unlike in previous years, the government did not ban any political parties, other than the Taliban. After some delays in registering parties whose leaders were former communists, over 70 accredited political parties registered with the Ministry of Justice and participated in parliamentary elections.

Political parties generally were able to conduct activities throughout the country, except in regions where antigovernment violence affected overall security. AIHRC and UNAMA reports revealed that officials sometimes interfered with political parties, mainly because of a lack of awareness of citizens' political rights. Political parties also exercised significant self-censorship. Political activities were visibly discouraged or curtailed in some parts of the country. However, UNAMA and AIHRC's conclusions were that political freedom improved substantially and steadily during the year.

Of the 249 seats in the Wolesi Jirga, the law requires that 10 seats be allocated to Kuchis and 68 seats to women. Approximately 25 percent of the total seats were



also reserved for women on each provincial council. In the Meshrano Jirga, 17 of the 34 seats appointed by the president were reserved for women, and 2 were reserved for persons with disabilities. Five women were elected to the Meshrano Jirga from the provincial councils, although there were no quotas for the number of women to be elected to the Meshrano Jirga from the provincial councils. There were two women in President Karzai's cabinet, one female governor, two women on the six-member electoral commission, and a female chair of the AIHRC.

While women's political participation gained a degree of acceptance, there were elements that resisted this trend. Antigovernment forces in the eastern, south-eastern, and southern regions of the country targeted women associated with the electoral process for violent attacks and threats. Of the 633 female candidates, 51 withdrew their candidacy, citing economic constraints as the cause for withdrawal. Despite these difficulties, citizens elected 17 women who would have won seats in the Wolesi Jirga even without the constitutional quota. A woman from Herat received the largest number of votes of any candidate in the province.

*Government Corruption and Transparency.*—There was widespread public perception of government corruption, including ministerial level involvement in the illegal narcotics trade. The government took few visible actions to combat corruption beyond public statements and the formation of an anticorruption office in the presidency. The president replaced several governors, reportedly because of their corrupt practices.

The constitution provides citizens the right to access government information, except in stances where this right might violate the rights of others. The government generally provided access in practice, but officials at the local level were less cooperative to requests for information.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Some of these human rights groups were based in Pakistan, with branches inside the country. The lack of security and instability in parts of the country severely reduced NGO activities in these areas. During the year suspected Taliban members fired on NGO vehicles, attacked NGO offices, and killed at least 30 aid workers (see sections 1.a. and 1.g.). In May authorities in Baghlan Province discovered the bodies of three women. Authorities suspected that at least one of the women was killed because she worked for an NGO. In October a Taliban ambush killed five Afghan aid workers from Afghan Help Development Services.

In June the government passed a new NGO law in an effort to reduce the number of for-profit companies operating as NGOs. Many NGOs supported this action as a way to differentiate themselves from those organizations taking advantage of the system to pose as NGOs.

Intimidation or violence directed at NGO workers increased during the year. There were reports in Kandahar that antigovernment forces increasingly attacked those accepting foreign assistance, causing villagers to begin refusing aid. On May 11, hundreds in Jalalabad rioted after reports of Koran desecration became public, resulting in 17 deaths and the burning of an AIHRC regional office. On October 12, unknown assailants killed five aid workers in Kandahar province. On October 16, Taliban members killed three men employed by international organizations for allegedly spying for foreign troops.

Local employees ran several international NGOs, including Global Rights (formerly International Human Rights Law Group) and HRW, which monitored the human rights situation inside the country.

The constitutionally mandated AIHRC continued its role in addressing human rights problems within the country. The nine-member appointed commission generally acted independently of the government, often voicing strong criticism of government institutions and actions, and accepting and investigating complaints of human rights abuses. The AIHRC established 10 offices outside Kabul.

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

The law provides for the equal rights of men and women; however, some local customs and practices that discriminated against women prevailed in much of the country. The severity of discrimination varied from area to area, depending on the local leadership's attitude toward education for girls and employment for women, and on local customs. Historically, the minority Shi'a faced discrimination from the majority Sunni population.

*Women.*—Women in urban areas regained some measure of access to public life, education, health care, and employment; however, the denial of educational opportunities during the Taliban years, as well as limited employment possibilities, continued to impede the ability of many women to improve their situation.

In February 2004 the government established the first unit of female police, and small numbers of women began to join the police force during the year; however, there were reports that female police officers found it difficult to be accepted as equals among their colleagues. For example, six female police officers in Kunduz faced discrimination and hostility, and spent the first four months on the job cleaning the police station. They were paid \$60 (3,000 AFNs), \$10 dollars (495 AFNs) less than their official salary, and they were forced to wear burkas over their uniforms under threats of violence. The Ministry of Interior reported that female recruitment was difficult because of cultural differences.

Violence against women persisted, including beatings, rapes, forced marriages, kidnappings, and honor killings. Such incidents generally went unreported, and most information on the abuse was anecdotal. On November 6, Farid Majid Naia beat and killed his wife, Nadia Anjuman, a poet, in Herat. While Naia admitted beating Anjuman, he claimed he stopped before she died. Naia claimed Anjuman ingested poison, but he did not allow an autopsy. Police detained Naia, and an investigation was ongoing at year's end.

The Ministry of Women's Affairs estimated that more than 50 percent of marriages involved women under 16, the legal minimum age of marriage for women. It was difficult to document rapes in view of the associated social stigma; however, rape and domestic violence against women remained serious problems. Authorities considered rape to be a serious crime in the country, punishable by death, although this punishment did not extend to spousal rape.

Exchanging women or girls remained a customary method of resolving disputes or satisfying debts. For example, a 6-year-old girl's parents traded her to work as a housemaid to another family after the girl's brother backed out of an engagement with the family's daughter.

Honor killings continued to be a problem. For example on December 30, in Watapour District of Konar Province, a married woman and her lover were killed along with the lover's mother. The provincial police chief alleged that the honor killing was committed by the family of the woman's husband, and he registered a case against the attackers.

There were over 219 detained women, many of whom were imprisoned at the request of a family member. Many of the incarcerated opposed the wishes of the family in the choice of a marriage partner, contended with adultery charges, or faced bigamy charges from husbands who originally granted a divorce but changed their minds when the divorced wife remarried. Women also faced bigamy charges from husbands who had deserted their wives and then reappeared after the wives had remarried. Some women resided in detention facilities because they had run away from home because of domestic violence or the prospect of forced marriage; there were no shelters for women in these situations. In Pul-I-Charkhi Prison, there were several girls between the ages of 17 and 21 years of age who were detained because they were captured after fleeing abusive forced marriages.

There were approximately seven detention centers for women. In locations where detention facilities were not available, women were held separately from men or given to members of the community to be watched over in their homes.

Police in Ghazni Province discovered Agela, a 13-year-old girl who was sentenced to five years in prison after her much-older, former husband had the girl and her new husband arrested. At five years of age, Agela's family had married her to a 55-year-old man. When Agela was eight, the man changed his mind about the marriage and arranged for Agela to marry a younger man. She obtained a divorce and remarried. However, after returning from two years in Pakistan, the older man changed his mind and had her and her new husband arrested.

In northern areas, commanders targeted women, especially from Pashtun families, for sexual violence. During the year, there were at least four credible reports of soldiers and commanders loyal to local warlords raping girls, boys, and women in provinces in the eastern, southeastern, and central part of the country. In one of these cases, police arrested two perpetrators, but the case remained open at year's end. A total of 21 such cases were reported to the AIHRC during the year.

There were growing concerns about women committing self-immolation, most often to escape from oppressive family circumstances such as forced marriage. Although comprehensive and accurate statistics were unavailable, doctors reported that self-immolations were increasingly common among young women in the western part of the country. Incidents of self-immolation also were reported to be particularly high in Herat and Farah Provinces. In September a physician from the

Herat hospital's burn unit reported that it was not uncommon to have as many as 10 cases of self-immolation per day. The AIHRC reported 101 cases of self-immolation during the year, although they claimed the number could be several times higher than reported. Upon investigation, the AIHRC found most self-immolations occurred to escape abusive marriages and to avoid marrying husbands that the victims did not want to marry. The AIHRC investigated 280 cases at year's end.

Prostitution was illegal but occurred regularly.

There was no law specifically prohibiting sexual harassment. Discrimination against women in some areas was particularly harsh. Some local authorities excluded women from all employment outside the home, apart from the traditional work of women in agriculture; in some areas, women were forbidden to leave the home except in the company of a male relative (see section 2.d.). According to the Institute for Media, Policy and Civil Society (IMPACS), women in Logar were prohibited from traveling to the area of town where a community radio station was based, and male journalists often were not allowed to interview women for their reports. In Paktika Province, female parliamentary candidates reported that women were not allowed to leave their homes, were forbidden from attending schools, and needed the permission of their male elders to conduct activities outside the home. UNAMA reported that male relatives had forbidden some female students in Kabul from attending universities outside the country.

While some women continued out of personal choice to wear the burqa, many other women felt compelled to wear one out of fear of harassment or violence. Cases of local authorities policing aspects of women's appearance to conform to a conservative interpretation of Islam and local custom have diminished. Unlike in previous years, government-owned media allowed female singers on television over the objections of religious conservatives, effectively ending a ban dating to 1992 (see section 2.a.).

The Ministry of Foreign Affairs (MOFA) and International Organization for Migration (IOM) reported that there was an increase in the trafficking of persons during the year (see section 5, Trafficking).

*Children.*—The law makes education up to the intermediate level mandatory, and provides for free education up to the college, or bachelor's degree level. Local authorities made some progress in school attendance. A back-to-school campaign launched by the Ministry of Education increased school enrollment from 4.2 million children in 2003 to over 5.2 million during the year.

Since 2002 the number of girls attending school increased by over 30 percent; however, an estimated 1.5 million school-age girls were not enrolled in classes. Some provinces had no schools for girls to attend, and in Kabul, some male family members did not allow girls to attend school. UNICEF reported that 34 percent of children enrolled in school were girls, although this figure hid large disparities from province to province, with enrollment as low as 15 percent in some areas.

Violence impeded access to education in some parts of the country where Taliban and other extremists threatened or physically attacked teachers and students, especially in girls' schools. In December a bomb explosion injured four girls and one boy in Kandahar Province outside their school. Extremists dragged and shot a teacher in the same region for teaching girls. In April 2004 suspected Taliban burned and destroyed two primary schools in Kandahar Province. In August suspected Taliban loyalists burned down a girls' school in Logar Province.

Child abuse was endemic throughout the country, ranging from general neglect, physical abuse, abandonment, and confinement to work in order to pay off family debts. There were no child labor laws or other legislation to protect child abuse victims (see section 6.d.).

Children did not have adequate access to health care; only one children's hospital existed in the country, and it was not readily accessible to those outside Kabul.

Child trafficking was widespread and continued to be a problem during the year (see section 5, Trafficking).

There were no new reports of the recruitment of child soldiers since President Karzai's 2003 decree prohibiting the recruitment of children and young persons under the age of 22 into the army. In 2004 UNICEF initiated a program that demobilized and reintegrated approximately four thousand of an estimated eight thousand former child soldiers. The remaining four thousand soldiers were transitioned out of the military during the year.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, traffickers could be prosecuted under other laws. The country was a source and transit point for trafficked persons. A 2003 IOM report noted qualitative and anecdotal evidence of increased trafficking in girls and children to Pakistan, Iran, and the Gulf states; however, the lack of systematic monitoring prevented a quantitative

assessment of the scale of the problem. What little data were available suggested that trafficking in children, mainly boys, was the predominant form of trafficking, at least across borders. An IOM report released during the year confirmed that the buying and selling of women and girls continued.

The AIHRC tracked and investigated cases of child abduction and worked to assist in international investigations of trafficking.

There were continued reports of poor families promising young girls in marriage to satisfy family debts. There were a number of reports that children, particularly from the south and southeast, were trafficked to Pakistan to work in factories, or internally to work in brothels. UNICEF cited unconfirmed reports of the abduction of women and children in the southern part of the country.

Although prosecutions of traffickers increased, and the government devoted greater attention to trafficking in persons during the year, prosecution of perpetrators continued to be inconsistent. Between March and December, the AIHRC and UNICEF received more than 150 reports of child trafficking, and reported approximately 50 arrests of child traffickers. Information on convictions was not available. President Karzai issued a decree mandating the death penalty for child traffickers convicted of murder, and lengthened prison terms. Trafficking victims, especially those trafficked for sexual exploitation, faced societal discrimination, particularly in their home villages, and the risk of contracting sexually transmitted diseases.

At year's end according to the AIHRC, authorities repatriated 317 children from Saudi Arabia, Pakistan, Zambia, and Oman. The Ministry of Labor and Social Affairs, with the assistance of UNICEF, set up a transit center to assist with these returns, and other agencies such as the AIHRC helped with the children's reunification and reintegration.

*Persons with Disabilities.*—The law requires the state to assist persons with disabilities and protect their rights; however, the government took no measures to mandate accessibility to buildings for persons with disabilities.

An estimated 750 thousand persons suffered from disabilities requiring at least some form of assistance. Although community-based health and rehabilitation committees provided services to approximately 100 thousand persons, their activities were restricted to 60 out of 330 districts, and they were able to assist only a small number of those in need.

*National/Racial/Ethnic Minorities.*—During the year claims of social discrimination against Hazaras and other Shi'as continued. The Hazaras accused President Karzai, a Pashtun, of providing preferential treatment to Pashtuns and of ignoring minorities, especially Hazaras. In 2004 Pashtuns in Herat Province accused then governor Ismail Khan, a Tajik, of discrimination and abuses against their ethnic group. The nomadic Kuchis expressed concern that the voter registration process under-represented their population; however, the government and the Joint Electoral Management Body (JEMB) worked to address their concerns.

*Other Societal Abuses and Discrimination.*—The law criminalizes homosexual activity; however, the prohibition was only sporadically enforced.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides broad provisions for protection of workers; however, little was known about their enforcement. Labor rights were not understood outside of the Ministry of Labor, and workers were not aware of their rights. There was no effective central authority to enforce them. The only significant employers in Kabul were the minimally functioning ministries and local and international NGOs.

*b. The Right to Organize and Bargain Collectively.*—The law does not provide for the right to strike; however, the country lacks a tradition of genuine labor-management bargaining. There were no known labor courts or other mechanisms for resolving labor disputes. Wages were determined by market forces, or, in the case of government workers, dictated by the government.

There were no reports of labor rallies or strikes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, little information was available.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under the age of 15 from working more than 30 hours per week; however, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. UNICEF reported an estimated one million child laborers under the age of 14 in the country. UNICEF also estimated that over 24 percent of children between the ages of 7 and 14 were working. Children from the age of six often worked to help support their families by herding

animals, collecting paper, scrap metal and firewood, shining shoes, and begging. Some of these practices exposed children to the danger of landmines.

*e. Acceptable Conditions of Work.*—No information existed regarding a statutory minimum wage or maximum workweek, or the enforcement of safe labor practices. Many employers allotted workers time off for prayers and observance of religious holidays.

## BANGLADESH

Bangladesh is a parliamentary democracy of 145 million citizens. Prime Minister Khaleda Zia, head of the Bangladesh Nationalist Party (BNP), assumed power in 2001 following multiparty parliamentary elections deemed to be free and fair by international and domestic observers. The civilian authorities generally maintained effective control of the security forces.

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

- extrajudicial killings
- arbitrary arrest
- politically motivated violence and killings
- impunity for security forces
- physical and psychological torture
- lengthy pretrial detention
- restrictions on privacy
- violence against and restrictions on journalists
- infringement on religious freedom
- extensive government corruption
- violence against women and children
- trafficking in women and children
- limitation on workers rights

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed numerous extrajudicial killings. The police, Bangladesh Rifles (BDR), and the Rapid Action Battalion (RAB) used unwarranted lethal force.

There was an increased number of killings by security personnel (see section 1.c.). Nearly all abuses went uninvestigated and unpunished. The resulting climate of impunity remained a serious obstacle to ending abuse and killings. In the few instances where charges were levied, punishment of those found guilty was predominantly administrative. According to press reports, law enforcement agencies, including the RAB, a paramilitary group composed of personnel from different law enforcement agencies, including the military, killed 396 persons this year. The deaths, all under unusual circumstances, occurred while an accused was in custody or during police operations; however, the government described the deaths of some identified criminals as occurring in crossfire between the RAB or police and criminal gangs. Of these 396 cases, 340 deaths were attributed to crossfire, of which the RAB was responsible for 107, the police 212, and other security forces 21. There were also a number of cases of deaths due to beatings or excessive force while in custody.

On February 21, one day after Delowar Hossain, a shopkeeper in the Naraynganj district was arrested by the RAB, Hossain was in a coma at Dhaka Medical College Hospital, where hospital staff noted severe abuse and torture marks on his body. Although Hossain later died, according to human rights investigators, no case or official report surrounding his death was filed at year's end. The RAB filed a case against Hossain after his death, alleging that he extorted money from vehicles passing over a bridge on the Dhaka-Chittagong road.

On May 31, citizens found the dead body of Abdul Kalam Azad Suman, a member of the Awami League's youth front, in Banosree, one day after his arrest by a RAB team in Khilgaon. While eye-witnesses told independent human rights investigators that the RAB arrested Suman from work, RAB members said Suman was working with a gang of criminals at Banosree, where the RAB team alleged Suman died in crossfire between RAB and the gang. The RAB filed two criminal cases against

Suman; however, some press reports suggested Suman's killing could have been a case of mistaken identity.

On July 8, the detective branch (DB) of Dhaka Metropolitan Police (DMP) shot and killed Khandker Iqbal Hossain a student at Jagannath college in Dhaka. Police said Hossain died after being shot in a crossfire, and filed two cases against Hossain after his death for possessing illegal weapons and for robbery. Independent human rights investigators found no evidence that Hossain was involved in any criminal activity. On August 18, Hossain's father filed a murder case with the court against nine DB officers and a union council chairman after police refused to register the case against the police officers. The court ordered the commissioner of the DMP to open an investigation, but at year's end no action was taken. There were no updates on the July 2004 extrajudicial killing by RAB forces of Awami League activist Sumon Ahmed Majumder, or the August 2004 extrajudicial killing by RAB forces of Pichchi Hannan.

Violence often resulting in deaths was a pervasive element in the country's politics (see sections 1.c. and 3). Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. According to human rights organizations, 310 persons were killed and 8,997 injured in politically motivated violence during the year (see sections 1.c., 1.d., and 2.a.).

On January 27, former finance minister and Awami League leader Shah A.M.S. Kibria and four others died when a grenade exploded at an Awami League rally in the northeastern city of Habiganj. On March 20, police filed charges against 10 persons, mostly local BNP leaders for their alleged involvement in the attack. At year's end eight of the accused were in custody awaiting trial, while the two others remained at large.

On May 17, unknown gunmen shot and killed Khorshed Alam Bachchu, the Awami League's Dhaka legal affairs secretary, near his home in Dhaka. At year's end an investigation had not occurred and no charges were filed.

On August 17, coordinated bombings in 63 of the country's 64 districts killed 2 persons and injured approximately 100 others. Leaflets found at the sites of the bombings indicated that the Jamiatul Mujahideen Bangladesh (JMB), a recently outlawed Islamic militant group seeking to impose Shari'a (Islamic law), coordinated the attacks. By year's end the police and RAB arrested numerous suspected militants. On October 10, the criminal investigation department filed charges against the brother of JMB chief Sheikh Abdur Rahman and six others for their involvement in the blasts. On September 11, the government announced rewards for information leading to the arrest of Bangla Bhai, a vigilante who in 2004 began his own anticrime campaign, initially with the support of the police, and JMB leader Shaikh Abdur Rahman for the party's alleged involvement in the August 17 blasts. Bangla Bhai and Shaikh Abdur Rahman remained at large at year's end.

In August 2004 a grenade attack at a rally in Dhaka, where Awami League (AL) president Sheikh Hasina was speaking, killed at least 20 persons, including the AL women's affairs secretary Ivy Rahman, and injured several hundred others. By year's end authorities arrested 20 persons in connection with this attack.

In May 2004 an explosion at a Muslim shrine in Sylhet killed several persons and injured dozens of others, including the British High Commissioner to the country, Anwar Chowdhury. The government did not conduct a serious investigation and no charges were filed.

Vigilante killings were common. Newspapers reported 206 such incidents in the first 8 months of the year. On March 26, mobs beat five alleged robbers to death in Narsingdi district. On April 21, mobs at Matuail in Dhaka burned and killed two alleged extortionists. On June 19, mobs lynched two alleged extortionists in Khulna and one in Bagerhat.

Violence along the border with India remained a problem. Local human rights nongovernmental organizations (NGOs) reported that 104 citizens were killed and 66 were injured by security guards. According to press accounts, Border Security Force (BSF) members and other Indians killed 461 citizens in the border villages from January 2000 through the end of the year. On May 27, Bangladesh security forces killed six alleged Indian insurgents in the Moullvi bazaar area.

*b. Disappearance.*—Disappearances and kidnappings were problems during the year. According to press accounts, 335 people were kidnapped between January and August, 93 for political reasons. Kidnapping for profit continued to be a problem. For example on March 26, 14 people were abducted from a village in Rangamati. The captors demanded \$15,150 (one million taka) as ransom for release of the villagers. According to local journalists, the villagers were released after a few days, denying that any ransom was paid so they would not be targeted for kidnapping again.

On August 12, a RAB team arrested Shahid Chairman for his role in the 2003 kidnapping of BNP leader and businessman Jamaluddin Ahmed Choudhury.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the law prohibits torture and cruel, inhuman, or degrading punishment, security forces, the RAB, and police routinely employed physical and psychological torture as well as cruel, inhuman, and degrading treatment during arrests and interrogations. Torture consisted of threats and beatings and the use of electric shock. According to the Bangladesh Rehabilitation Center for Trauma Victims, there were 2,297 victims of torture and 15 deaths due to torture by security forces during the year (see sections 1.a., 1.d., and 2.a.). The government rarely charged, convicted, or punished those responsible, and a climate of impunity allowed such police abuses to continue.

On July 15, three off-duty RAB members assaulted Abu Bakar Sultan after Sultan asked the RAB members to stop attacking a driver in Uttora, near Dhaka. The RAB members blindfolded and handcuffed Sultan, took him to their office in Uttora, tied him to a tree, and repeatedly kicked, punched, and beat him with iron rods and hammers. After a senior RAB official acquainted with Sultan's family intervened, the RAB released Sultan and admitted him to a hospital with multiple fractures and swellings. On July 24, newspapers reported that RAB authorities withdrew three officers and sent them back to their home police departments. Police excused 10 others from duty in relation to the case.

Bangladesh Society for the Enforcement of Human Rights (BSEHR) recorded six incidents of rape by law enforcement personnel during the year. Due to strong social taboos, most NGO's believed the actual number of sexual assault was much higher.

On July 28, a riot police officer told a woman he found at a bus station in Dhaka that he wanted to hire her as domestic help. Instead of escorting her to his home, the officer took her to a hotel and raped her with the assistance of a male hotel employee. The woman filed a rape case, and an investigation was underway at year's end.

According to BSEHR, after police paid the family of Dolly Khatun, the woman who was raped by 14 police officers in December 2004, \$3 thousand (200 thousand Taka) in compensation, Ms. Khatun changed her official testimony, Khatun dropped her case. Police claimed that NGOs coerced Ms. Khatun to provide false testimony against police.

Law enforcement personnel accused of rape and torture generally were not investigated. In some cases police detained women in safe custody after they reported a rape, which often translated as confinement into jail cells where they endured poor conditions and were sometimes abused and raped again (see section 5).

Human rights groups and press reports indicated that vigilantism against women for perceived moral transgressions occurred in rural areas, often under a *fatwa* (see section 2.c.), and included punishments such as whipping. A local human rights organization recorded 35 incidents of *fatwas* calling for physical violence and social ostracization.

Rejected suitors, angry husbands, or those seeking revenge sometimes threw acid on a woman's face as an act of retribution (see section 5).

*Prison and Detention Center Conditions.*—Prison conditions were abysmal and were a contributing factor to custodial deaths. According to press reports, 76 persons died in prison and 210 died while in the custody of police and other security forces (see section 1.a.). All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the existing prison population of 76,328 was nearly 300 percent of the official prison capacity of 27,545. Of the entire prison population, 51,801 were awaiting trial and 24,317 had been convicted, according to figures received by a human rights organization. In most cases, cells were so crowded that prisoners slept in shifts.

Juveniles were required by law to be detained separately from adults; however, in practice, due to a lack of facilities, many juveniles were incarcerated with adults. On July 9, the Dhaka Metropolitan Magistrate Court released a 9-year-old boy from a criminal case after investigators from a local human rights organization noticed him during a regular prison visit. Pretrial detainees were not held separately from convicted prisoners.

Although the law prohibits women in safe custody from being housed with criminals, in practice, no separate facilities existed.

In general, the government did not permit prison visits by independent human rights monitors, including the International Committee of the Red Cross (ICRC). Government-appointed committees of prominent private citizens in each prison locality monitored prisons monthly but did not release their findings. District judges occasionally visited prisons but rarely disclosed their findings.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, authorities frequently violated these provisions, even in non-preventive detention cases. The law specifically allows preventive detention, with specified safeguards, and provides for the detention of individuals on suspicion of criminal activity without an order from a magistrate or a warrant. The government arrested and detained persons arbitrarily and used national security legislation such as the Special Powers Act (SPA) of 1974 to detain citizens without filing formal charges or specific complaints.

*Role of the Police and Security Apparatus.*—Police were organized nationally, under the Ministry of Home Affairs (MOHA), and had a mandate to maintain internal security and general law and order. Police were generally ineffective, reluctant to investigate persons affiliated with the ruling party, and were used frequently for political purposes by the government.

The RAB, a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken to address human rights problems. The RAB committed serious human rights violations.

There was widespread police corruption and a severe lack of resources, training, and discipline. Victims of police abuse were reluctant to file charges, as there was no independent body charged with investigation of criminal allegations against members of the police force. There were no developments during the year regarding the legality of the Joint Drive Indemnity Act, which barred persons from seeking remuneration for human rights violations that occurred during Operation Clean Heart in 2003.

Plaintiffs rarely accused police in criminal cases due to lengthy trial procedures, and out of fear of retribution against them or their families. This often created a climate of impunity for police.

*Arrest and Detention.*—The law does not provide for the use of warrants in all cases. Section 54 of the Criminal Procedure Code and Section 86 of the DMP Ordinance provide for the detention of persons on the suspicion of criminal activity without an order from a magistrate or a warrant, and the government regularly arrested persons without formal charges or specific complaints. Authorities misused ordinances during the year, and mass arrests, often politically motivated, continued to occur. According to Odhikar, a local human rights NGO, police arrested a total of 3,912 persons from January through August of the year under Section 54 and in the Dhaka metropolitan area another 25,374 under Sections 86 and 100 of the DMP Ordinance.

Authorities used Sections 54 and 86 to detain persons on false charges as punishment for the expression of views critical of or different from the government. In September 2004 in Dhaka, police arrested large numbers of opposition party members prior to the opposition's planned public rallies in October 2004. The high court, following the filing of a petition from human rights NGOs, barred police from arresting any citizen under Section 86 until October 2004; however, police continued to arrest persons under section 54. The law provides for the right to a prompt judicial determination; however, this was rarely enforced.

Under the SPA, the government or a district magistrate may order a person detained for 30 days to prevent the commission of an act that could threaten national security; however, detainees were held for longer periods. In SPA cases, the magistrate must, by the 15th day, inform the detainee of the grounds of his detention, and an advisory board is supposed to examine the cases of SPA detainees after four months. Detainees have the right to appeal.

There is a functioning bail system in the regular courts, although, under certain security and crime law, a non-bailable period of detention exists. In August 2004 a high court panel ordered the release of over 7,400 detainees on bail who had been in prison without undergoing trial for more than 360 days. At year's end none of those ordered released were set free. Criminal detainees were granted access to attorneys; however, detainees were not entitled to be represented by a lawyer before an advisory board. State-funded defense attorneys rarely were provided, and there were few legal aid programs to offer financial assistance. Lawyers usually were allowed only after charges were filed. Legal representatives are granted access to their clients arrested under Section 54, but in practice, police rarely allowed lawyers to confer with their clients arrested under these sections of the law. Arbitrary arrests were common. The government used serial detentions to prevent the release of political activists (see section 4).

The government used Sections 54 and 86 to harass and intimidate members of the political opposition and their families. Police detained opposition activists prior to and during demonstrations without citing any legal authority, holding them until



the event was over (see section 2.b.). On June 4, police arrested Bidisha Ershad, wife of Jatiya Party chairman and former president Hossain Muhammad Ershad on politically motivated charges of money laundering, theft, and threatening to kill her husband. Following her release on bail 23 days after being taken into custody, a new warrant was issued against her for writing checks with insufficient funds. The charge was made by a member of President Ershad's staff, claiming a check she wrote to him for over \$300 thousand (20 million taka) was not honored by her bank. She was granted bail on this charge and at years end, all cases were still pending.

It was difficult to estimate the total number of persons detained for political reasons. Many activists were charged with crimes, and many criminals claimed to be political activists. Most such detentions lasted for several days or weeks, and defendants in most cases received bail; however, dismissal of wrongful charges or acquittal took years.

According to a local human rights organization, 310 persons died and 8,997 were wounded in incidents of political violence. Police arrested 1,216 persons for political reasons during the year, most of whom were held for a short time prior to their release (see sections 1.a., 1.c., and 2.a.).

Arbitrary and lengthy pretrial detention remained a problem. The backlog of criminal cases stood at approximately 40 thousand. In addition, a recent survey by the Ministry of Law stated that 1,013 prisoners have made no court appearance in at least 6 months and many have served longer in pretrial detention than they would have had they been convicted and given the maximum sentences for their alleged crimes. According to Odikhar, approximately 75 percent of prison inmates were in pretrial detention.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, in practice a longstanding temporary provision of the constitution places the lower courts under the executive, and the courts were subject to executive influence largely because judges' appointments and their pay were dependent on the executive. The higher levels of the judiciary displayed some independence and often ruled against the government in criminal, civil, and politically controversial cases. Corruption, judicial inefficiency, targeted violence against judges, and a large backlog were serious problems.

For example on November 15, a bungled suicide attack killed two judges. Two weeks later four suicide attackers killed two policemen at the courthouse in Chittagong, and several attorneys inside the courthouse in Gazipur. On December 1, unknown assailants attacked the municipal complex in Gazipur that housed the courthouse. While no group claimed responsibility for these attacks, JMB leaflets were found at many of the crime scenes. In December judges went on strike seeking improved security.

The court system has two levels: the lower courts and the Supreme Court. Both hear civil and criminal cases. The lower courts consist of magistrates, who are part of the executive branch, and session and district judges, who belong to the judicial branch. The Supreme Court is divided into two sections: the high court and the appellate court. The high court hears original cases mostly dealing with constitutional issues and reviews cases from the lower courts. The appellate court has jurisdiction to hear appeals of judgments, decrees, orders, or sentences of the high court. Rulings of the appellate court are binding on all other courts.

The government continued to delay action on the Supreme Court order asking that administrative measures be put in place separating the judiciary from the executive. In April the Supreme Court gave the government its 20th extension to comply with the order, setting a deadline for October. On October 20, the Supreme Court refused to entertain the government's 21st appeal seeking another extension; however, at year's end the judiciary was not separated from the executive.

In September a high court panel rendered unconstitutional a 1980s amendment to the constitution which legitimized martial law. The Prime Minister's Office quickly arranged for a stay of the ruling because of its ramifications for the legacy of former president Ziaur Rahman, the late husband of the prime minister.

*Trial Procedures.*—The law provides accused persons with the right to be represented by counsel, to review accusatory material, to call witnesses, and to appeal verdicts. Judges decided cases without the use of juries. Trials were public, and defendants had the right to an attorney; however, state-funded attorneys were rarely provided. Under the provisions of the public safety act, Law and Order Disruption Crimes Speedy Trial Act (STA), and the Women and Children Repression Prevention Act, special tribunals hear cases and issue verdicts. Cases under these laws must be investigated and tried within specific time limits, although the law was unclear regarding the disposition of the case if it was not finished within the allotted

time period. Defendants were presumed innocent, had the right to appeal, and had the right to access government-held evidence.

The court system was plagued by corruption and a substantial backlog of cases, and trials were typically marked by extended continuances while the accused remained in prison. These conditions effectively prevented many persons from obtaining a fair trial. A September 2004 Transparency International survey revealed that magistrates, attorneys, and court officials demanded bribes from defendants in more than 67 percent of the cases filed under the STA (see section 1.d.).

In July 2004 parliament codified the use of Alternative Dispute Resolution (ADR) and extended its use to Sylhet and Chittagong. ADR allows citizens to have the opportunity to present their cases before filing for mediation. According to government sources, wider use of mediation in civil cases quickened the administration of justice. While the ADR system has popular appeal, no independent entity conducted an assessment of its fairness or impartiality. The Muslim Family Ordinance codifies traditional Islamic law concerning inheritance, marriage, and divorce for registered marriages for members of the Muslim community. There are similar sets of laws in place for the Hindu and Christian communities. Marriages in rural areas sometimes were not registered because of ignorance of the law.

*Political Prisoners.*—The government stated that it held no political prisoners; however, opposition parties and human rights monitors claimed the government arrested many political activists and convicted them on unfounded criminal charges (see section 1.d.). NGOs did not have access to prisoners.

On April 30, a Dhaka court granted bail to and released Salah Uddin Shoaib Chaudhury, who was detained at the airport for his attempted 2003 travel to Israel.

*Property Restitution.*—During this year the government did not take any measures to implement the 2001 Vested Property (Return) Act providing for property restitution to the mostly Hindus who had their property seized by the government after the 1965 India-Pakistan war under the Vested Property Act. The government did not publish a list of vested property under its control and as a result, the original land owners cannot reclaim their entitled property (see section 2.c.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law allowed intelligence and law enforcement agencies to tap phones with the permission of the chief executive of MOHA. The ordinance also gives the government the authority to prevent phone operators from delivering messages, in the interest of national security. In cases of national emergency, the government can revoke any permit to provide communications services, without providing compensation to the holder of the license. The ordinance went into effect during a recess in parliament, but must be approved as soon as parliament returns to become permanent law.

Police, even in cases not affiliated with the SPA, rarely obtained warrants, and officers violating these procedures were not punished. Reporters Without Borders (RSF) claimed that police monitored journalists' e-mail. The Special Branch of the police, National Security Intelligence, and the Directorate General of Forces Intelligence employed informers to report on and conduct surveillance on citizens perceived to be political opponents of the government.

The government on occasion forcibly resettled persons. In May and June the government evicted approximately 35 families from land they had traditionally occupied for generations in the Dinajpur area in order to implement a development project. When funding was pulled, the families were allowed to return to the area, but the government made no effort to compensate them for the loss of their homes. Affected residents were living in makeshift dwellings until they can afford to rebuild. In November 2004 the government evicted a slum in the Agargaon area of Dhaka. While a local NGO filed a writ petition challenging the eviction, the government stated that the slum area was a security threat for the upcoming South Asian Association for Regional Cooperation summit. The government indicated that it would replace the ad hoc residences with shops and other business establishments.

Police sometimes threatened family members of individuals who were wanted by police. During the year there were instances of physical abuse or detention of family members by law enforcement personnel to extract information regarding wanted relatives.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and press; however, in practice the government limited these rights.

Individuals were not always able to criticize the government publicly without fear of reprisal, and the government often attempted to impede criticism by prohibiting or dispersing political gatherings.

There were hundreds of daily and weekly independent publications. Many newspapers criticized government policies and activities, including those of the prime minister. In addition to one official government-owned news service, there was one private news service, United News of Bangladesh, which was affiliated with Agence France-Presse.

Newspaper ownership and content were not subject to direct government restriction. The government owned or significantly influenced one radio and some television stations; however, unlike in previous years, these stations did not focus the bulk of their coverage on the government.

While four private television stations were in operation, the government shut down one private radio station in May, ostensibly for failing to pay bills on time. The government issued four new private television and three new radio station licenses, giving the licenses allegedly to persons with close political connections. Cable operators generally functioned without government interference; however, all private stations were required to broadcast, without charge, some government news programs and speeches by the prime minister and the president as a condition of operation.

Attacks on journalists and newspapers, and government efforts to intimidate them, political party activists, and others, occurred frequently. Attacks against journalists by political activists were common during times of political violence, and some journalists were injured in police actions. According to a local human rights organization, 142 journalists were injured, 2 killed, 11 arrested, 4 kidnapped, 53 assaulted, and 249 threatened during the year.

Additionally unknown assailants attacked the news offices of the Bangladesh Songbad Songshta, the national news agency and The *Daily Mathabhanga* in Chuadanga during the year. Editors and senior journalists allegedly received anonymous phone calls regarding published articles unfavorable to the government; however, threats of explicit violence were rare in such calls. In 2004 RSF criticized the treatment and security of journalists in the country.

On December 1, according to RSF, a bomb detonated by the JMB outside a public building in Gazipur, north of Dhaka, and wounded three journalists. On November 21, police beat Channel I television reporter Mahbub Matin while he was covering an AL demonstration. Police also wounded Matin's cameraman in the attack.

On May 2, authorities released journalist Salah Uddin Shoaib Chaudhury on bail for his attempted travel to Israel.

There were no developments in the January 2004 killing of Manik Chandra Saha, president of the Khulna press club, the June 2004 killing of the *Daily Janmabhumi* editor, or the October 2004 killing of Dipanker Chakrabarty, editor of the *Daily Durjoy Bangla*.

The government applied indirect pressure to coerce journalists into self-censorship. For example, in July 2004 an official of the prime minister's press wing threatened to limit a private television reporter's access to ruling party functions if he did not stop covering an opposition candidate's campaign. The reporter was withdrawn from election coverage by his supervisors for failing to comply.

Foreign publications and films were subject to review and censorship. A government-run film censor board reviewed local and foreign films and had the authority to censor or ban films on the grounds of state security, law and order, religious sentiment, obscenity, foreign relations, defamation, or plagiarism. Video rental libraries and DVD shops stocked a wide variety of films, and government efforts to enforce censorship on rentals were sporadic and ineffective.

The government exercised censorship most often in cases of immodest or obscene photographs, perceived misrepresentation or defamation of Islam, and for objectionable comments regarding national leaders. The censor board requested the deletion of a line in the movie "My Architect" that misidentified the country as the poorest in the world during an August screening of the film. In April 2004 the government confiscated the April 2 issue of the Indian magazine, *Desh*, for using indecent words about Adam and Eve. In April 2004 the government forbade *Time* magazine from being placed in government establishments, including on the national airline, because of its negative portrayal of the country.

Novelist Taslima Nasreen remained abroad after being freed on bond in 2004 for criminal charges against her for allegedly insulting Muslim beliefs (see section 2.c.). There were no developments in this case during the year. The government did not directly restrict citizens' access to the Internet. RSF claimed police continued surveillance of journalists' e-mail (see section 1.f.).

The government did not limit academic freedom; however, authorities discouraged research on sensitive religious and political topics.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, subject to restrictions in the interest of public order

and public health; however, the government frequently limited these rights. The law allows the government to ban assemblies of more than four persons, and, according to Ain O Shalish Kendro, a local human rights NGO, the government imposed 73 such bans from January to mid-August. The government sometimes used bans to prohibit rallies for security reasons.

On February 26, police in Dhaka used batons and teargas to disperse an AL Jubo (youth) League procession protesting militant groups and the price hike of food and petroleum products. Police wounded the Jubo League's general secretary along with 30 other activists and 2 police officers.

On March 2, police and BNP activists attacked buses carrying AL activists on their way to a rally in Paltan Maidan in Dhaka. According to press accounts, police injured over 50 AL activists in the attack.

On June 1, BNP activists sabotaged a meeting of the Bikalpa Dhara Bangladesh (BDB) party by damaging the meeting's venue. Former president Badruddoza Chowdhury headed the BDP party.

On November 22, both BNP activists and police disrupted the free movement of AL supporters on their way to the AL Grand Rally. Such obstructions took place in at least three sites within an hour's travel of Dhaka: Dhamrai, Keraniganj and Manikganj.

In January 2004 police and forest guards fired on a procession of tribal people protesting an eco-park project and killed Piren Snal, a member of the Garo tribe in Madhupur forest in Tangail district. Authorities conducted a judicial investigation, and the court dismissed the case in November 2004 due to insufficient information. Snal's family filed another petition contesting the legitimacy of the investigation's report, and the case was pending at year's end.

*Freedom of Association.*—The law provides for the right of every citizen to form associations, subject to "reasonable restrictions" in the interest of morality or public order, and the government generally respected this right. Individuals were free to join private groups.

*c. Freedom of Religion.*—The law establishes Islam as the state religion and also stipulates the right, subject to law, public order, and morality, to practice the religion of one's choice, and the government generally respected this right in practice. Although the government is secular, religion exerted a powerful influence on politics. Discrimination against members of religious minorities existed at both the governmental and societal level, and religious minorities were disadvantaged in practice in such areas as access to government jobs, political office, and access to justice.

Religious organizations are not required to register with the government, but the government requires all NGOs, including religious organizations, to register with the NGO Affairs Bureau if they receive foreign funds for social development projects. The government has the legal ability to cancel the registration of an NGO or to take other actions such as dissolving the executive committee of the NGO, freezing its bank accounts, or canceling projects; however, the government rarely used such powers and did not affect NGOs with religious affiliations.

Discrimination against Ahmadiyas continued during the year. The government ban on the publishing of Ahmadiya literature continued to be stayed by the high court, and the government did not appeal the stay to the appellate court, effectively allowing Ahmadiyas, for the time being, to publish their materials. At times police allowed, and even assisted, demonstrators in removing signs referring to Ahmadiya mosques as mosques. For example on April 17, approximately 15 thousand activists belonging to the International Khatme Nabuat Movement (INKMB) marched on an Ahmadiya mosque in Sathkira in the southwestern part of the country, and attempted to remove signs referring to the Ahmadiya place of worship as a mosque. Members of the Ahmadiya community tried to stop the group, but marchers began throwing stones. Police attempted to intervene, but instead of dissuading the activists, they assisted members of the INKMB in taking down and replacing the Ahmadiya sign.

As in previous years the government failed to prepare a list of property that was expropriated by the government from Hindus following the 1965 India-Pakistan War.

Foreign missionaries were allowed to work in the country, but their right to proselytize is not explicitly protected by the law. Some missionaries faced problems in obtaining visas or renewing visas, which must be renewed annually. Some foreign missionaries reported that internal security forces closely monitored their activities; however, no missionaries reported other government harassment during the year. The government allowed various religions to establish places of worship, train clergy, travel for religious purposes, and maintain links with co-religionists abroad. The law permits citizens to proselytize; however, strong social resistance to conversion

from Islam meant that many missionary efforts by Christian groups were aimed at serving communities that had been Christian for several generations.

*Societal Abuses and Discrimination.*—Discrimination against Ahmadiyas, Hindus, and Christians occurred during the year. On June 22, unknown actors set ablaze an Ahmadiya mosque in Nator, and two days later, unknown actors detonated several bombs at an Ahmadiya mosque in Brahmanbaria, and four bombs at an Ahmadiya mosque in Bhadugarh in the Branmanbaria area. At year's end eight persons were arrested in connection with the attacks.

On July 28, unknown assailants in Faridpur district killed two employees of the NGO Christian Life Bangladesh, allegedly because they showed an evangelical film. Police arrested several suspects for the killing, but at year's end police released all suspects and no charges were filed.

On December 22, after the government declined to meet the demands of the INKMB to label Ahmadiyas as non-Mulsims, the INKMB and a splinter organization marched to the Ahmadiya complex in Dhaka and attempted to hang a sign that stated that the Ahmadiya mosque was not an actual mosque. The police stopped the INKMB activists and their affiliates from proceeding and in the clashes that ensued between the 2 groups, 50 demonstrators and 7 police were wounded.

In January 2004 according to press reports, armed attackers led by a local BNP leader set on fire 20 houses belonging to Hindus, injuring 30 persons. Victims alleged that the attack originated over a pending property dispute.

In September 2004 unidentified assailants killed Dr. Joseph Gomes, a Christian convert, near his home in Jamalpur district. Police arrested a local madrasah teacher, Maulana Abdus Sobhan Munshi for the killing, held him for two weeks, and released him. At year's end no one else was charged for the crime.

Religious minorities were disadvantaged in access to government jobs and political office. Selection boards for government services often lacked minority group representation.

While there is no known local Jewish community, anti-Semitic commentary sometimes appeared in the press.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected these rights in practice; however, there were instances in which the government restricted these rights.

For example on June 22, government officials evicted and destroyed the homes of 35 families in Dinajpur district in the northwestern part of the country, in order to establish a government project at the site of their homes.

The law does not provide for exile, and it was not used.

The country's passports were invalid for travel to Israel.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, and the government has not established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. Working with the UN High Commissioner for Refugees (UNHCR), the government provided temporary protection to individual asylum seekers whom the UNHCR interviewed and recognized as refugees on a case-by-case basis.

During the year the government denied asylum to Rohingya from Burma by categorizing them as illegal economic migrants and turned back as many persons as possible at the border. According to the UNHCR, some refugees returned by the government were fleeing persecution and were entitled to refugee status. Some unregistered persons in UNHCR camps returned illegally after their official repatriation to Burma, sharing food and lodging with relatives who received rations as registered members of the camps. On a number of occasions, camp officials handed some of the unregistered persons over to police, who sent them to prison under the Foreigners' Act. There were 114 Rohingya refugees in local prisons in the Cox's Bazaar area at year's end. UNHCR officials visited the detained refugees once a month.

There was a pattern of continued neglect of refugees, specifically towards the Rohingya and Bihari refugees. During the year 20,939 Rohingya refugees remained in 2 camps administered by the government in cooperation with the UNHCR, while another approximately 200 thousand Rohingyas not officially recognized as refugees lived outside the camps in the surrounding area of Teknaf and Cox's Bazaar. The government and UNHCR collaborated in the repatriation of 92 refugees. While UNHCR managed to substantially decrease the number of forced repatriation cases, they have received numerous allegations that government camp authorities placed

pressure on refugees to repatriate, intimidating them with arbitrary arrest, physical abuse, and harassment.

UNHCR field workers reported several cases of refugee abuse including rape, assault, domestic abuse, deprivation of food ration entitlements, and documentation problems. In March UNHCR received reports that a police inspector and his staff severely beat and attempted to rape 6 females, including 2 girls aged 8 and 12. UNHCR strongly protested to camp authorities but the government took no action. In December 2004 local villagers raped two minor female refugees; government camp authorities reportedly justified beating as a better alternative to detention or imprisonment for punishment. Government camp authorities, tasked with arbitration in the camps, continuously practiced confiscation of ration books as a mode of punishment and usually extorted bribes from refugees for return of their ration books. UNHCR received several hundred complaints of ration book confiscation incidents during the year.

The government placed excessive restrictions on refugees' freedom of movement and ability to work or earn a livelihood. The government continued to ignore UNHCR requests to allow those Rohingya refugees, unable to return to Burma, to work, benefit from local medical programs, or participate in the education system, insisting that all Rohingya refugees remained in camps until their return to Burma. The government claimed Rohingyans were not allowed to possess money, and that money in their possession could be confiscated at any time.

In June 2004 to protest the government's forced repatriation and mistreatment by security forces, some refugees in Kutupaalong camp staged demonstrations, refused their rations, and boycotted the government-run medical clinic. According to UNHCR, in June 2004 police fired approximately 15 rounds into a group of several hundred protestors throwing stones during a regular night patrol. No injuries were reported. In November 2004 police killed at least three Rohingyan refugees on suspicion of arms smuggling and since then, several refugees remain unaccounted for. Police promised UNHCR it would investigate the incident, but at years end they failed to do so. The government has repeatedly rejected a UNHCR proposal to grant the refugees rights for temporary stay and freedom of movement under a self-reliance program.

Approximately 300 thousand non-Bengali Bihari Muslims who emigrated to the former East Pakistan during the 1947 partition and who supported Pakistan during the 1971 war continued to live in camps throughout the country. According to NGO Refugees International, they lived in camps with little access to education, medical attention, and in unsanitary conditions. Some Biharis declined citizenship in 1972 and were awaiting repatriation to Pakistan, where the government was reluctant to accept them. Many of the stranded Biharis born after 1971 have assimilated into the mainstream Bengali-speaking environment and likely would accept citizenship if it was offered.

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

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

Members of parliament are elected at least every five years. The parliament has 345 members, 300 of whom are directly elected at-large, and another 45 of whom are female members nominated by political parties and indirectly elected by the other members of parliament. Party leaders appoint candidates for elections; some candidates allegedly purchased nomination from party leaders with generous campaign contributions or personal gifts.

*Elections and Political Participation.*—Khaleda Zia, leader of the BNP, became prime minister following parliamentary elections in 2001, deemed to be free and fair by international and domestic observers. The 2001 elections, supervised by a nonparty caretaker government, took place in a climate of sporadic violence and isolated irregularities. The BNP formed a four-party coalition government with the Jamaat-e-Islami, Bangladesh Jatiya Party, and the Islami Oikko Jote; however, the BNP and the opposition AL dominated the political scene.

In June 2004 the AL returned to parliament after a year's boycott; however, the AL walked out of parliament again in September 2004, alleging the speaker's biased role in favor of the ruling party. AL members attended a parliamentary session for a few minutes in February to protest the January 27 killing of former finance minister Shah A.M.S. Kibria (see section 1.a.). Throughout the year, AL legislators participated in the meetings of the parliamentary standing committees on various ministries but continued to boycott by-elections and attendance on the floor of the par-

liament. AL leaders complained of government restrictions and interference in their political activities including their right to organize (see section 2.b.).

There were seven women directly elected by the people in the parliament. In September political parties nominated 45 more women to fill in the newly established reserved seats for women created through the 14th constitutional amendment, ratified in May 2004. The seats were distributed among political parties proportionate to their numerical strength in parliament. The AL, which did not participate in the debate on adding the 45 seats, did not accept its share of reserved seats, saying that the amendment fell short of the promise to make a provision for women to be elected directly by the people. Some women's rights groups also protested the amendment on similar grounds and challenged its validity in the high court. The Supreme Court discharged the writs.

There were three women holding ministerial positions, including the position of prime minister. The leader of the opposition in parliament, who enjoyed the status of a cabinet minister, and 4 of the 79 judges of the Supreme Court were women.

There was no provision for providing parliamentary seats for minorities. Members of minority groups constituted approximately 12 percent of the population but held less than 3 percent of parliamentary seats.

*Government Corruption and Transparency.*—Corruption remained a problem throughout the government. Transparency International Bangladesh (TIB) indicated, in a report published in September, that systemic corruption posed a serious challenge to efforts to promote good governance. A TIB sample survey showed that most incidents of corruption involved the police, while the monetary value of corruption was the biggest in the Ministry of Communication. A similar survey released in September 2004 revealed that 90 percent of the population paid bribes to officials during land transfer registration and that magistrates, court officials, and lawyers solicited bribes in more than 67 percent of the cases filed under the STA. At the Chittagong port, officials belonging to the port authority and customs extracted an estimated annual \$133 million (7.83 billion taka) in bribes from importers and exporters. The Official Secrets Act of 1923 protected corrupt government officials from public scrutiny, hindering transparency and accountability at all levels.

In November 2004 the government announced the formation of a three-member anticorruption commission and during the year, the anticorruption commission focused largely on organizational challenges, failing to have an impact on combating corruption.

There is no law providing for public access to government information. Instead, the Official Secrets Act protects government officials from scrutiny, in the name of national security.

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

A wide variety of domestic and international human rights groups generally operated independently and without government restriction, investigating and publishing their findings on human rights cases. While human rights groups were often sharply critical of the government, they also practiced self-censorship, particularly on politically sensitive cases and subjects. Unlike in previous years, the government did not pressure individual human rights advocates by filing false allegations against them or by delaying reentry visas for international human rights activists. Missionaries who advocated on behalf of human rights faced problems regarding visas. A few human rights activists reported harassment by the intelligence agencies. For example the government blocked foreign funding to the PRIP Trust NGO because the organization's executive director, Aroma Dutta, championed minority rights during the 2001 general election. The government released part of the foreign funding to the PRIP Trust during the year.

In February several offices of leading NGOs, such as the Grameen Bank and Bangladesh Rural Advancement Committee (BRAC), came under attack in northern areas of the country. Authorities charged Dr. Asudullah Al-Gailb, the leader of Ahle Hadith, a local Islamic group for the bombings of the Grameen and BRAC offices and for targeting a series of cultural events and organizations for attack. On March 1, an office of CARITAS in Dinajpur caught fire which, according to some press accounts, was caused by the explosion of two bombs.

On April 19, Rafiq Ali, president of the country's chapter of Non-Violence International, was acquitted for his alleged involvement in an arms act case. Authorities arrested Mr. Ali on suspicion of arms smuggling because he, in collaboration with Forum Asia, was providing community education seminars on small arms smuggling.

The government cooperated with international organizations such as the UNHRC and the ICRC; however, the ICRC did not visit the country during the year. In De-

cember 2004 the Asia Pacific director of the UNHCR visited the country to investigate the status of the Rohingyas. Despite its election pledge and repeated public announcements, the government did not enact legislation establishing an independent National Human Rights Commission. Previous legislation authorizing the establishment of a Human Rights Ombudsman's Office continued to remain dormant.

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

The law prohibits discrimination; however, the government did not strongly enforce laws aimed at eliminating discrimination. Women, children, minority groups, and persons with disabilities often confronted social and economic disadvantages.

*Women.*—Domestic violence was widespread. Although violence against women was difficult to quantify, recent research showed that up to 50 percent of all women were victims of domestic violence. Much of the reported violence against women was related to disputes over dowries. During the year Odhikar found 227 reported dowry-related killings.

The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime. During the year local NGOs found 907 reported incidents of rape and 91 of attempted rape. The press reported that 126 of the rape victims were killed and that another 14 committed suicide after being raped. Human rights monitors insisted that the actual number of rapes was higher, as many rape victims did not report the incidents in order to avoid social disgrace. Prosecution of rapists was uneven. On January 19 at a workshop organized by BSEHR, then attorney general A.F. Hassan Ariff said "judges consider rape like theft, robbery and other crimes."

On February 2, a Dhaka court sentenced Kala Guddu to 30-year's imprisonment for raping a 5-year-old girl in the Mohammadpur area of Dhaka in 2003.

Prostitution is legal and remained a problem during the year. The minimum age of 18 for legal prostitution was commonly ignored by authorities and circumvented by false statements of age. Procurers of minors were rarely prosecuted, and large numbers of child prostitutes worked in brothels. The UN Children's Fund estimated in 2004 that there were 10 thousand child prostitutes working in the country, but other estimates placed the figure as high as 29 thousand. Trafficking of women internally and internationally remained a problem (see section 5, Trafficking).

Laws specifically prohibit certain forms of discrimination against women, provide for special procedures for persons accused of violence against women and children, call for harsher penalties, provide compensation to victims, and require action against investigating officers for negligence or willful failure of duty; however, enforcement of these laws was weak. In 2003 parliament passed an amendment weakening provisions for dowry crimes and addressing the issue of suicide committed by female victims of acts of dishonor.

According to government sources, the Social Welfare Department ran six homes for vagrants and one training center for destitute persons, with a total capacity of 2,300 individuals. In addition, the Ministry of Women and Children Affairs ran six shelters, one each in the six divisional headquarters, for abused women and children. NGOs, such as the Bangladesh National Women Lawyers' Associations (BNWLA), also ran facilities to provide shelter to destitute persons and distressed women and children; however, this was insufficient to meet victims' shelter needs. As a result, the government often held women who filed rape complaints in safe custody, usually in prison. Safe custody frequently resulted in further abuses against victims, discouraged the filing of complaints by other women, and often continued for extended periods during which women were unable to gain release (see section 1.c.). In September 2004 there were 184 women in safe custody with 320 children accompanying them.

Incidents of vigilantism against women—sometimes led by religious leaders (by means of *fatwas*)—at times occurred, particularly in rural areas (see section 1.c.). Acid attacks remained a serious problem. Assailants threw acid in the faces of women and a growing number of men, leaving victims disfigured and often blind. According to Odhikar, 196 persons fell victim to acid attacks during the year. NGOs reported that 104 of the attacks were against women, 55 against men, and 37 against children. Few perpetrators of the acid attacks were prosecuted. In 2002, the government enacted legislation to control the availability of acid and reduce acid violence directed towards women, but lack of awareness of the law and poor enforcement limited its impact. The 2002 Acid Crime Control Law provides for speedier prosecutions in special tribunals and generally does not allow bail. While the special tribunals were not entirely effective, according to the Acid Survivors Foundation, tribunals convicted 36 persons for acid attacks.



Women remained in a subordinate position in society, and the government did not act effectively to protect their basic rights (see section 1.e.). Employment opportunities increased at a greater rate for women than for men in the last decade, largely due to the growth of the export garment industry. Women made up 80 percent of garment factory staff. Programs run by the government and NGOs extending micro-credit to rural women improved their economic power. Pay was generally comparable for men and women.

*Children.*—The government was generally responsive to children's rights and welfare. Many of these efforts were supplemented by local and foreign NGOs, and these joint efforts allowed the country to make significant progress in improving health, nutrition, and education; however, slightly more than one-half of all children were chronically malnourished.

Under the law, children between ages 6 and 10 must attend school through the fifth grade. Primary education is free and compulsory, but the implementation of compulsory education fell short in part because parents kept children out of school, preferring instead to have them working for money or helping with household chores. Government incentives to families sending children to schools contributed significantly to the rise in the enrollments in primary schools in recent years. According to 2001 statistics provided by Campaign for Popular Education, 80 percent of school-age children were enrolled in schools with almost an equal male-female ratio. In a 2002 report, the Campaign for Popular Education stated that 70 percent of the children completed education up to the fifth grade and that the dropout rate was 24.3 percent. According to Education Ministry statistics, 97 percent of school-age children were enrolled in primary schools during the year. The government expanded incentives for female education by making education free for girls up to grade 12 and using a stipend system from grades 6 to 12. Boys received free education only to grade 5.

There were a few government hospitals designated exclusively for children, and boys and girls had equal access to medical care in government hospitals.

While the legal age of marriage is 18 for girls and 21 for boys, underage marriage was a significant problem. Reliable statistics about underage marriage were difficult to find because marriage registrations were sporadic and birth registrations to verify child's actual age were not universal. Mass Line Media, a local human rights NGO, conducted a survey in 2004 which estimated that 40 percent of all marriages could be considered child marriages. In an effort to prevent child marriage, the government offered stipends for girls' school expenses if parents promised to delay their daughters' marriage until at least age 18.

According to human rights groups, 205 children were abducted, nearly 314 suffered unnatural deaths, and more than 486 children fell victim to serious abuses such as rape, sexual harassment, torture, and acid attack during the year. According to child rights activists, violence against children declined due to growing awareness regarding child rights.

Reports from human rights monitors indicated that child abandonment, kidnapping, and trafficking continued to be serious and widespread problems. Despite certain advances, trafficking of children continued to be a problem (see section 5, Trafficking).

Child labor remained a problem and frequently resulted in the abuse of children, mainly through mistreatment by employers during domestic service and occasionally included servitude and prostitution (see sections 6.c. and 6.d.). Children were seriously injured or killed in workplaces.

According to a 2002 report published by the government news agency Bangladesh Shongbad Shongsta, there were approximately 400 thousand homeless children, of whom as many as 150 thousand had no knowledge of their parents. Few facilities existed for children whose parents were incarcerated.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking remained a serious problem. Trafficking in children for immoral or illegal purposes carries the death penalty or life imprisonment, and the government took measures for the expeditious prosecution of traffickers. During the year 65 cases were disposed of by the special courts dealing with incidents of repression against women and children. Courts convicted 28 persons and ordered sentences ranging from death to 10 years in prison. Besides police, the coast guard, BDR, the RAB, and a number of NGOs recovered and assisted victims of trafficking.

There was extensive trafficking in both women and children, primarily to India, Pakistan, Bahrain, the United Arab Emirates (UAE), Kuwait, and destinations within the country, mainly for prostitution and in some instances for labor servitude. Some boys were trafficked to the Middle East to be used as camel jockeys.

According to government sources, law enforcement personnel recovered 139 victims of trafficking during the year. A cooperative effort between NGOs, the government, and the UAE, resulted in the repatriation of 164 camel jockeys, 159 of whom were reunited with their biological parents. The other five remained in NGO shelters at year's end, receiving social and vocation skills training while the NGO attempted to locate their families.

BNWLA rescued 314 trafficking victims from within the country and repatriated 32 others from the UAE and India during the year. The number of persons arrested for trafficking was difficult to obtain, as charges against traffickers were sometimes for lesser crimes, such as crossing borders without proper documents. According to the Center for Women and Child Services, most trafficked boys were under 10 years of age, while most trafficked girls were between 11 and 16 years of age.

The exact number of women and children trafficked was unknown. Most trafficked persons were lured by promises of good jobs or marriage, and some were forced into involuntary servitude outside of and within the country. Parents sometimes willingly sent their children away to escape poverty. Unwed mothers, orphans, and others outside of the normal family support system were also susceptible. Traffickers living abroad often arrived in a village to marry a woman, only to dispose of her upon arrival in the destination country, where women were sold into bonded labor, menial jobs, or prostitution. Criminal gangs conducted some of the trafficking. The border with India was loosely controlled, especially around Jessore and Benapole, making illegal border crossings easy.

Police and local government officials often ignored trafficking in women and children for prostitution and were easily bribed (see sections 1.c. and 5).

The government continued its efforts to combat trafficking in persons through the trafficking monitoring cell at police headquarters, a monthly inter-ministerial committee headed by the secretary of the Home Ministry. The cell monitored the activities of the police and assisted in prosecuting relevant cases. The monitoring units formed in each of the 64 district headquarters sent updated statistics to the police headquarters. Arrests and prosecutions continued steadily. Nevertheless, the government's capacity to address this issue remained limited. Government projects included conducting awareness campaigns, research, lobbying, and rescue and rehabilitation programs. Additionally the secretary of the Home Ministry met monthly with NGOs working on anti-trafficking issues to facilitate coordination and cooperation between the government and civil society.

The government convened two special inter-ministerial committees, with the cooperation of local and international NGOs, to monitor the repatriation, rehabilitation, and social integration of repatriated camel jockeys. While the government provided support for returning trafficking victims, government-run shelters were generally inadequate and poorly run. The government increasingly referred repatriated victims to private shelter homes for care.

Many NGOs, community-based organizations, and local government leaders worked on trafficking through prevention, research, data collection, documentation, advocacy, awareness creation and networking, cross-border collaboration, legal enforcement, rescue, rehabilitation, and legislative reform. Despite constraints such as lack of birth and marriage records at the village level, some trafficking cases were prosecuted. There was also some success in increasing shelter capacity and developing rehabilitation programs.

*Persons with Disabilities.*—The law provides for equal treatment and freedom from discrimination for persons with disabilities; however, in practice, persons with disabilities faced social and economic discrimination. The law focuses on prevention of disability, treatment, education, rehabilitation and employment, transport accessibility, and advocacy.

The Ministry of Social Welfare, the Department of Social Services, and the National Foundation for the Development of the Disabled are the government agencies responsible for protecting the rights of persons with disabilities. The Ministry of Social Welfare set up a task force, composed of government officials and members of NGOs, who adopted an action plan in 2004 to improve the overall welfare of the disabled. The plan awaits cabinet approval.

Government facilities for treating persons with mental handicaps were inadequate. Several private initiatives existed in the areas of medical and vocational rehabilitation, as well as employment of persons with disabilities.

*Indigenous People.*—Tribal people have had a marginal ability to influence decisions concerning the use of their lands. Despite the 1997 Chittagong Hill Tracks (CHT) Peace Accord, which ended 25 years of insurgency in the CHT, law and order problems and alleged human rights violations continued, as did dissatisfaction with the implementation of the Peace Accord. The Land Commission dealing with land

disputes between tribal individuals and Bengali settlers did not function effectively in addressing critical land disputes. Tribal leaders remained disappointed with the lack of assistance provided to those who left the area during the insurgency.

According to a human rights organization, 25 persons died and 71 were injured in violence in the CHT during the year. During the same period, 81 persons were kidnapped, 2 women were raped, and 35 persons were arrested. *Parbatya Chattagram Jana Samhati Samiti* and the anti accord tribal group, United People's Democratic Forum (UPDF), blamed each other for most of the abductions in Khagrachhari and Rangamati in 2004. In February 2004 armed tribal youths abducted seven UPDF members from a wedding party at Shabekong in Naniarchar. There were also reports of violence involving Bengalis and tribal people in Rangamati.

Tribal people in other areas also reported loss of land to Bengali Muslims. Government initiated ecoparks and national park projects on land traditionally owned by indigenous communities continued to progress in the Moulvibazar and Modhupur forest area despite the resistance efforts of indigenous groups.

*Other Societal Abuses and Discrimination.*—The law provides for punishment for intercourse “against the order of nature with any man, woman or animal.” In practice the law was rarely invoked; however, according to Human Rights Watch (HRW), gay men were harassed and raped by police and local criminals without proper methods of recourse, due to societal discrimination against gays. HRW also found that gay men often faced threats of extortion. According to HRW, considerable official and societal discrimination existed against those who provided HIV prevention services, and against high-risk groups likely to spread HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to join unions and, with government approval, the right to form a union; however, the government did not always respect these rights in practice. The total work force was approximately 65 million persons, of whom 1.8 million belonged to unions, most of which were affiliated with political parties. There were no reliable labor statistics for the large informal sector, in which the vast majority (75 to 80 percent) of citizens worked. Special legislation on unionization prohibits the formation of unions in the country's Export Processing Zones (EPZs). According to the law a workplace must have 30 percent union participation for union registration. Would-be unionists technically are forbidden to engage in many activities such as member advocacy prior to registration and legally are not protected from employer retaliation during this period. Labor activists protested that this requirement severely restricted workers' rights to organize, particularly in small enterprises and the private sector during the year, and the International Labor Organization (ILO) recommended that the government amend the 30 percent provision. The ILO also recommended that the government amend provisions that bar registration of a union composed of workers from different workplaces owned by different employers this year. An estimated 15 percent of the approximately 5,450 labor unions were affiliated with 25 officially registered National Trade Union (NTU) centers. There were also several unregistered NTUs.

Unions were generally highly politicized, and unions were strongest in state-owned enterprises and in such institutions as the government-run port in Chittagong. Civil service and security force employees were forbidden to join unions because of their highly political character. Teachers in both the public and the private sector were not allowed to form trade unions.

The Registrar of Trade Unions may cancel registration of a union with the concurrence of the Labor Court, but no such actions were known to have taken place during the year. There were provisions in the Industrial Relations Ordinance for the immunity of registered unions or union officers from civil liability. Enforcement of these provisions was uneven. In past illegal work actions, such as transportation blockades, police officers arrested union members under the SPA or regular criminal codes.

Trade unionists were required to obtain government clearance to travel to ILO meetings.

The International Confederation of Free Trade Unions (ICFTU) continued to note a number of exclusions of international trade union rights under the Industrial Relations Ordinance during the year. These were restrictions regarding membership in unions and election of union officials, restrictions on activities of public servants' associations, restrictions on the right to organize and bargain collectively in EPZs, and restrictions on the right to strike.

*b. The Right to Organize and Bargain Collectively.*—The law does not ban discrimination by employers against union members and organizers, and in practice, private sector employers usually discouraged any union activity, sometimes working

in collaboration with local police. The Registrar of Trade Unions rules on discrimination complaints. In a number of cases, the labor court ordered the reinstatement of workers fired for union activities. However, the labor court's overall effectiveness was hampered by a serious case backlog. Alternative dispute resolution techniques began to be used to decrease the backlog.

Collective bargaining, other than in EPZs, is legal on the condition that unions are legally registered by the Registrar of Trade Unions as collective bargaining agents represent workers. Collective bargaining occurred occasionally in large private enterprises such as pharmaceuticals, jute, or textiles, but due to concerns over job security, most workers did not practice collective bargaining. Collective bargaining in small private enterprises generally did not occur.

The right to strike is not recognized specifically by the law, but strikes were a common form of workers' protest and were recognized as a legitimate avenue for addressing unresolved grievances by the Industrial Relations Ordinance of 1969. In addition opposition political parties used general strikes to pressure the government to meet political demands. Some employees organized in professional associations or unregistered unions went on strike during the year.

The Essential Services Ordinance permits the government to bar strikes for three months in any sector it declares essential. During the year the government continued to impose the ordinance, originally applied in 2002, to the Power Development Board, the Dhaka Electric Supply Authority, Bangladesh Biman Airline, the Chittagong Port Authority, and the Bangladesh Petroleum Corporation.

In 2003 the government announced it would not allow collective bargaining authority in jute mills during production time. In the past the government had applied this ban to national airline pilots, water supply workers, and shipping employees. The ban may be renewed for three-month periods. The government is empowered to prohibit a strike or lockout at any time before or after the strike or lockout begins and to refer the dispute to the labor court.

Mechanisms for conciliation, arbitration, and labor court dispute resolution are established under the Industrial Relations Ordinance. Workers have the right to strike in the event of a failure to settle. If the strike lasts 30 days or longer, the government may prohibit it and refer the dispute to the labor court for adjudication, although this has not happened in recent years.

There are EPZs in the country. In July 2004 parliament passed a bill allowing limited freedom of association rights in EPZs. The country's five EPZs are exempt from the application of the Employment of Labor (Standing Orders) Act, the Industrial Relations Ordinance, and the Factories Act, thereby excluding workers in the zones from protection for their rights to organize and bargain collectively, and from coverage by laws governing wages, hours, and safety and health standards. While substitutes for some of the provisions of these laws are implemented through EPZ regulations unions for the EPZ officials did not permit Worker Representation and Welfare Committee (WRWC) members to meet with WRWC members in other factories, did not permit them to meet with outside labor organizations on their own time after the completion of the work day, and did not consistently afford time for WRWC members to meet together in their factories. The WRWCs do not have collective bargaining rights but could negotiate with the employer on working conditions, remuneration or payment for productivity enhancements and worker education programs.

During the year at the Ring Shine Factory located in the Savar EPZ, workers were submitted to arrest, and contrary to the EPZ law, were locked out of the factory. At year's end EPZ officials had not hired the desired number of sufficiently trained and experienced conciliators and arbitrators.

At a number of other factories, there were acts of management intimidation, abuse, and improprieties during the election process, against workers during and after the elections, including suspension of workers and elected WRWC members, without due process, and contrary to EPZ law. EPZ officials provided limited instruction to factory management and workers on the duties and responsibilities of management and workers under the law. In the aftermath of the labor dispute, however, a labor management agreement was reached, which permitted extensive training of management and labor on their roles and responsibilities under the law.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or bonded labor, including by children; however, the government did not enforce this prohibition effectively. The Factories Act and Shops and Establishments Act created inspection mechanisms to strengthen laws against forced labor, but these laws were not enforced rigorously, partly because resources were scarce. There was no bonded or forced labor in large-scale enterprises; nevertheless, numerous domestic servants, including many children, worked in conditions that resembled servitude and many suffered physical abuse, sometimes resulting in death. There continued to be numer-

ous reports of violence against domestic workers. The government brought criminal charges against employers who abused domestic servants. Many impoverished families settled instead for financial compensation. Trafficking of women and children was a problem (see section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Because of widespread poverty many children began to work at a very young age. According to the government's National Child Labor Survey published in 2003 the government estimated that approximately 3.2 million children between the ages of 5 and 14 years worked. Working children were found in 200 different types of activities, such as shrimp farming, of which 49 were regarded as harmful to children's physical and mental well-being. Sometimes children were seriously injured or killed in workplaces. Children often worked alongside family members in small-scale and subsistence agriculture. Hours usually were long, the pay low, and the conditions hazardous. Many children worked in the *beedi* (hand-rolled cigarette) industry, and children under 18 years sometimes worked in hazardous circumstances in the leather industry or the brick-breaking industry. There continued to be reports of several thousand children forced to work long hours on fish farms on small islands in southwestern Bagerhat district for five months a year in hazardous conditions. The farm owners paid and fed the children poorly. The coast guard periodically rescued and returned child workers to their home villages.

Children routinely performed domestic work. The government sometimes brought criminal charges against employers who abused domestic servants. Under the law every child must attend school through grade 5 or the age of 10 years. However, there was no effective mechanism to enforce this provision.

There was virtually no enforcement of child labor laws outside the export garment sector. Penalties for child labor violations were nominal fines ranging from an estimated \$4 to \$10 (228 to 570 takas). Most child workers were employed in agriculture and other informal sectors, where no government oversight occurred.

In 2003 the Bangladesh Garment Manufacturers' and Exporters Association (BGMEA), the Department of Labor, and the ILO jointly inspected an estimated 2,200 BGMEA-member factories with the declared intention of eliminating child labor in the garment sector. They found that less than 1 percent of the factories surveyed employed child labor, down from over 25 percent in 1997.

The non-formal education directorate of the government, international organizations, and some NGO partners sponsored programs to provide education to some working children in urban slum areas around the country. The government has been a member of ILO—International Program on the Elimination of Child Labor since 1994. A foreign government-ILO collaborative program included a \$six million (approximately 400 million taka) project to eliminate the worst forms of child labor in five targeted industries: *beedi* production, matchmaking, tanneries, construction, and child domestic workers. As of 2003, 19,874 children had been removed from hazardous work, 19,508 were attending non-formal education training, 7,623 had been admitted to formal schooling, and 3,060 were receiving prevocational training. Employers from 51 *beedi* and brick-breaking industries have declared their sites child labor free.

*e. Acceptable Conditions of Work.*—There is no national minimum wage. Instead, the wage commission, which convenes sporadically, sets wages and benefits for each industry, using a range based on skill level. In most cases, private sector employers ignored this wage structure. For example, in the garment industry, many factories did not pay legal minimum wages, and it was common for workers of smaller factories to experience delays in receiving their pay or to receive trainee wages well past the maximum three months. In 2001 according to the ICFTU, 21.7 percent of textile workers in the country earned the minimum wage. Wages in the EPZs were generally higher than outside the zones. The declared minimum monthly wage for a skilled industrial worker was approximately \$58 (taka 3,400) for a worker in an EPZ and approximately \$45 (taka 2,650) for a worker outside an EPZ. This was not sufficient to provide a decent standard of living for a worker and family.

In September the government returned the country to a 5 day, 40 hour work week, with a Friday and Saturday weekend. The law applied to government employees, banks, NGOs, and other office workers. Factory workers continued to labor under the old law, a 48 hour work week, with a mandated 1 day off, and up to 12 hours of overtime. The law was enforced poorly.

The Factories Act nominally sets occupational health and safety standards. The law is comprehensive but largely was ignored by employers. Workers may resort to legal action for enforcement of the law's provisions, but few cases actually were prosecuted. Enforcement by the Labor Ministry's industrial inspectors was weak, due both to the low number of labor inspectors and to endemic corruption and ineffi-

ciency among inspectors. Due to a high unemployment rate and inadequate enforcement of the laws, workers demanding correction of dangerous working conditions or refusing to participate in perceived dangerous activities risked losing their jobs.

## BHUTAN

Bhutan is a hereditary monarchy with a population of approximately 800 thousand. King Jigme Singye Wangchuck governs with the support of a National Assembly, a cabinet, and a Council of Ministers. As head of state, the king is responsible for matters relating to the country's security and sovereignty. Citizens elected 106 of the 150 representatives in the National Assembly in 2003, 10 elected by the National Assembly, 10 nominated by the clergy, and 10 nominated by the king. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record improved during the year, although problems remained. A few prisoners arbitrarily detained for violence related to a pro-democracy movement in 1991–92 were released, but others remained in prison. Unlike in previous years, there were no reports of police conducting house-to-house searches for dissidents. Human rights problems included:

- limited right to change government
- restrictions on speech and press
- restrictions on assembly and association
- restrictions on freedom of religion
- limited political expression
- restrictions on political parties
- discrimination against the ethnic Nepali minority

The government released a draft constitution in March that included provisions protecting political and human rights, and held open and active discussions regarding the merits of the document during the year. By year's end the constitution had yet to be enacted, although nationwide deliberations continued. The government issued identity cards, which previously had been denied to some citizens of Nepali descent, making land registration, travel, and school attendance more accessible.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions reportedly were Spartan. The International Committee of the Red Cross (ICRC) conducted one visit to the Lodrai Sub-district Jail and Chamgang Central Jail during the year. Prisoners incarcerated for politically motivated crimes were kept in areas separate from common criminals.

During the year the government extended the ICRC prison visits program for another year, as it has done annually since a five year Memorandum of Understanding was signed by the ICRC and the government in 1998. Authorities allowed the ICRC generally unhindered access to prisons.

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

*Role of the Police and Security Apparatus.*—The Royal Bhutan Police, under the control of the Ministry of Home and Cultural Affairs, was responsible for internal security. The Royal Bhutan Army was responsible for external threats but also had some internal security responsibilities, such as guarding forests, providing VIP protection, and conducting counter insurgency operations. Corruption and impunity were not problems during the year.

*Arrest and Detention.*—Under the law police may not arrest a person without a warrant, must immediately inform the accused of the charge, must make a reasonable effort to inform the person's family of the arrest, and must bring an arrested person before a court within 24 hours, exclusive of travel time from place of arrest,

and the police normally respected the law in practice. There were no reports of arbitrary arrest or detention during the year. Human rights activists alleged that legal protections were incomplete, due to a shortage of defense attorneys.

According to the ICRC, six persons detained in connection with political dissidence and violence in 1991–92 were released during the year. An undetermined number of Nepal-based refugees who attempted to return to the country were turned over to Indian authorities and returned to camps in Nepal.

*e. Denial of Fair Public Trial.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The judiciary is overseen by the National Judicial Commission. The judicial system consists of three branches, the subdivisional court, the district court, and a high court. Only the king can pardon or commute a sentence. Judges to the High Court and 20 district courts were appointed by the king on the recommendation of the National Judicial Commission and may be removed, suspended, or censured by him, only at the request of the National Judicial Commission. The chief justice, using recommendations of the Judicial Service Council, made judicial appointments to the sub-divisional courts.

The Office of Legal Affairs (OLA) is the judicial support department of the government and conducted state prosecutions, drafted and reviewed legislation, and rendered legal counsel. The OLA consists of a legal services division with domestic, international, and human rights sections, and a prosecution division, with a criminal section and a civil section.

*Trial Procedures.*—The law stipulates that defendants receive a fair and speedy trial, as long as it does not limit the ability of the accused to prepare adequately a defense, and these conditions generally were respected. Bail is also available depending on the severity of charges, the suspect's past criminal record, likelihood of flight, and potential threat to the public. A preliminary hearing must be convened within 10 days of registration with the appropriate court. Before any guilty or no contest plea is registered, the court must determine that the accused is mentally sound and understands the consequences of such action. Defendants enjoy a presumption of innocence and all cases must be proved to the "beyond a reasonable doubt" standard. Juries were not used. Current punishments include imprisonment, probation, fines, or restitution. Defendants have the right to appeal to the High Court and may make a final appeal to the king, who traditionally delegated the decision to the Royal Advisory Council. Trials were conducted publicly, except for family law and cases involving juveniles.

Questions on family law such as marriage, divorce, adoption, and child custody were addressed under the Marriage Act of 1980, amended in 1996.

Citizens generally had the right to a fair trial. Courts adjudicated criminal cases and a variety of civil matters under both customary law and the legal code codified in 2001 as the Bhutan Civil and Criminal Procedure Code. State-appointed prosecutors filed charges and prosecuted cases for offenses against the state. In other cases the relevant organizations and departments of government filed charges and conducted the prosecution. Unlike in previous years, there were no reports that defendants were not presented with charges in their own language or that defendants were not given enough time to prepare their defense. Defendants were able to confront and question witnesses who were testifying against them and were able to present witnesses and evidence on their behalf. Defendants and their attorneys had access to government-held evidence.

Defendants may choose legal representation from a list of 165 government-licensed advocates. The OLA stated that most defendants sought legal assistance only in serious criminal cases. Since there was a legal requirement that citizens pay for their legal counsel, many citizens unable to afford representation did not receive sufficient legal assistance. Village headmen, who had the power to arbitrate disputes, constituted the bottom rung of the judicial system. Magistrates, each with responsibility for a block of villages, could review the decisions of village headmen. Magistrates' decisions could be appealed to district judges, of which there was one for each of the country's 20 districts. The High Court in Thimphu is the country's supreme court.

*Political Prisoners.*—Approximately 70 persons remained incarcerated in connection with violence associated with political dissidence from 1991–92.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions in practice. Unlike in previous years, there were no reports that police conducted house to house searches for suspected dissidents without explanation or legal justification. Unlike in previous years, there were no reports of illegal searches during the year. Only an authorized agent of the government may search mail without a

warrant and only if there is cause to suspect that the parcel contains narcotics, contraband such as weapons or explosives, or information that could be harmful to public health or security. Wiretapping is not allowed without a warrant.

Human rights groups argued that the government interfered with peoples' rights by requiring all citizens, including minorities, to wear the traditional dress of the ethnic majority in all public places. This law was strictly enforced only for Buddhist religious buildings, government offices, schools, official functions, and public ceremonies; otherwise, the enforcement of this law was sporadic, and it was common to see people in nontraditional dress throughout the country (see section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law does not provide for freedom of speech and of the press, but the government generally respected these rights in practice. Individuals were able to criticize the government publicly; however, the government did at times attempt to impede criticism and monitor political meetings.

The country's only regular publication was *Kuensel*, a biweekly newspaper. It also reported stories on a daily basis through its online edition. Unlike in previous years, according to the editorial staff and management of *Kuensel*, the publication was independent, funded entirely through advertising and subscription revenue, and was free to report on any subject. During the year the paper often published stories critical of the government and highlighted societal problems. Its board consisted of senior civil servants and private individuals. *Kuensel* was published in English, Dzongkha, and Nepali. The government maintained that it did not restrict the creation of new publications. Foreign newspapers and magazines were available.

There were no reports of government restrictions on the Internet or academic freedom; however, the government regulated all material on the Internet that it considered pornographic.

Radio and television stations, run by the Bhutan Broadcasting Service, were government owned; however, a large variety of television programming was available in the country, including CNN, BBC, and a number of Indian news services. The government did not censor content.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law does not provide for freedom of assembly, and the government restricted this right in practice.

*Freedom of Association.*—The law does not provide for freedom of association, and the government restricted this right in practice by not permitting the creation of political parties and organizations; however, the government allowed civic and business organizations to function freely. The government regarded political parties organized by ethnic Nepalese exiles—the Bhutan People's Party, the Bhutan National Democratic Party, and the Druk National Congress—as illegal, terrorist, and antinational. These parties, which sought the repatriation of refugees and democratic reforms, were unable to conduct activities inside the country.

*c. Freedom of Religion.*—The law provides for freedom of religion; however, the government restricted this right in practice, and Buddhism was the state religion. Approximately two-thirds of the population practiced either Drukpa Kagyupa or Ningmapa Buddhism.

The government subsidized monasteries and shrines of the Drukpa sect and provided aid to approximately one-third of the Kingdom's 12 thousand monks. The government also provided financial assistance for the construction of Drukpa Kagyupa and Ningmapa Buddhist temples and shrines. The government maintained that it supported the monastic establishment in accordance with an agreement it made with the Buddhists in 1956, when the government seized land from them for redistribution to landless citizens. In exchange, the government committed to providing financial support to the monasteries. Societal pressure for conformity with Drukpa Kagyupa norms was prevalent.

The king declared one major Hindu festival a national holiday, and the royal family participated in it. There was only one Hindu temple in Thimphu. NGOs reported that permission from the government to build religious temples was required but rarely granted for non-Buddhist religious buildings, with the last reported Hindu temple constructed in the early 1990s. Followers of religions other than Buddhism and Hinduism were free to worship in private homes but could not erect religious buildings or congregate in public. International Christian relief organizations and Jesuit priests were active in education and humanitarian activities. Mahayana Buddhism is the state religion. Proselytism by other faiths is illegal. Although there was no legal prohibition against conversion, some NGOs claimed that the government prohibited conversions by Buddhists to other faiths.



*Societal Abuses and Discrimination.*—According to dissidents living outside the country, only Buddhist religious teaching was permitted in schools. Some dissidents claimed that Buddhist prayer is compulsory in all government-run schools; however, the government contended that Buddhist teaching was permitted only in monastic schools and that religious teaching was forbidden in other schools. NGOs confirmed that, although students take part in a prayer session each morning, it is non-denominational and not compulsory. Applicants for government services sometimes were asked their religion before services were rendered. All government civil servants were required to take an oath of allegiance to the king, the country, and the people. The oath did not have religious content, but a Buddhist Lama administered it (see section 5).

The country does not have a Jewish population, and there were no reports of anti-Semitic acts.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, but the government placed limits on them in practice. There were highway checkpoints at which persons were required to show their citizenship identity cards to pass. Citizens traveling in border regions were required to show these cards at immigration check points, even at check points that were located a considerable distance from the country's open border with India. Issuance of security clearances for ethnic Nepalese was often based on the status of their relatives, and clearances were frequently denied to family members of ethnic Nepalese currently living in refugee camps in Nepal. Many ethnic Nepalese claimed that they were frequently denied government security clearances, a prerequisite for obtaining a passport. All citizens must have a security clearance to attend higher education or work for the government.

The law does not address forced exile. Although the government officially does not use formal exile, in previous years many political dissidents freed under government amnesties stated that they were released on the condition that they depart the country. The government denied this. Many of those released subsequently registered at refugee camps in Nepal, and some relocated to India.

*Protection of Refugees.*—The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government recognizes the right to asylum in accordance with international refugee law. The government has not established a system for providing protection to refugees. There were no reports that the government did not provide protection against *refoulement*, the return of persons to a country where they feared persecution.

The government restricted emigration and prohibited the return of citizens who left the country. The country's citizenship laws state that persons who have left the country of their own accord, without the knowledge of the government, or whose names are not recorded in the citizenship register maintained in the Ministry of Home Affairs (MHA), will not be considered citizens of the country. Some dissidents claimed that this law was created specifically to deny citizenship to ethnic Nepalese Bhutanese. Over the years, local government offices gave many such persons identity cards without registering them with the central offices of the MHA.

During the mid- and late-1980s, citizenship became a highly contentious matter in the country. Citizenship requirements resulted in the denaturalization of many ethnic Nepalese residents. Those who lost citizenship under the 1985 law were permitted to apply for naturalization only if they were able to prove 15 years of residence prior to 1985. Those who could not meet the new citizenship requirements were deemed to be illegal immigrants. In addition citizens who voluntarily emigrated, without government approval, lost their citizenship. Beginning in 1988 the government expelled large numbers of ethnic Nepalese under the new citizenship law.

Many ethnic Nepalese went to camps in Nepal where they remained. According to the UN High Commissioner for Refugees (UNHCR), tens of thousands of ethnic Nepalese from the country were living in seven camps in southeastern Nepal. Also, approximately 15 thousand additional persons fled the country and resided in India, but UNHCR did not accord them refugee status. Since 1993 there have been a series of negotiations with Nepal to resolve the refugee problem.

In 2003 the Joint Verification Team (JVT), composed of representatives of both the country and Nepal, released verification results for one refugee camp, the Khudunabari camp. It identified 2.4 percent of the total camp population as eligible Bhutanese citizens, with the absolute right of return; 70.6 percent as "voluntary migrants," who would have to apply for citizenship if they chose to return; 24.2 percent

as “nonnationals” who could not return; and 2 percent as criminals who would have to face charges if they returned to the country. All refugees remained in Nepal at year’s end. During the year the government did not restart the JVT process, citing concerns over the security situation in Nepal following a 2003 attack on its verification team members by refugees in the Khudunabari camp and the ongoing Maoist insurgency in Nepal.

The Citizenship Act provides for the revocation of the citizenship of any naturalized citizen who “has shown by act or speech to be disloyal in any manner whatsoever to the king, country, and people of Bhutan.” The Home Ministry later declared in a circular that any nationals leaving the country to assist “antinationalists,” and the families of such persons, would forfeit their citizenship. Human rights groups alleged that these provisions were used widely to revoke the citizenship of ethnic Nepalese who subsequently were expelled from or otherwise departed the country.

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

Citizens do not have the right to change their government. The country is a monarchy with sovereign power vested in the king. However, in March the government released a draft constitution, stipulating a constitutional monarchy, with limited right to change the government, a separation of powers, and protection of human rights. At year’s end the draft constitution had not been enacted.

*Elections and Political Participation.*—In 2003 citizens elected 105 members of the 150-member National Assembly. Of the remaining 45 seats, the Buddhist clergy selected 10, and the king appointed 35. The National Assembly has the power to remove ministers whom the king nominates but has never done so. Political authority has devolved to the National Assembly, which can pass legislation; however, ultimate control still resided in the king and the cabinet, which is composed of the Royal Advisory Council and the Council of Ministers.

The National Assembly, which convenes twice a year, in June and November, elects the Council of Ministers and the Royal Advisory Council. A special session, if necessary, can be called at any time.

Each national assembly constituency consisted of a number of villages. Each village was permitted to nominate one candidate, and the vote was conducted by secret ballot, according to national election law. There is no provision for self nomination, and the law states that no person may campaign for the candidacy or canvass through other means. Political parties were not allowed. Parties established abroad by ethnic Nepalese and eastern Bhutanese were banned (see section 2.b.).

In 2003 human rights activists claimed that the only time individual citizens had involvement in choosing a national assembly representative was when asked by the village headman to provide consensus approval of a village candidate. The activists claimed that district officials suggested candidates, who in turn took their direction from the central government, and that consensus approval occurred at a public gathering. Human rights activists stated that there was no secret ballot, but the government refuted these allegations. According to the government, a secret ballot was mandatory, even if there was only one candidate.

The king nominates all cabinet ministers, who are then elected by the National Assembly. A minister’s term is limited to five years, after which he or she must pass a vote of confidence in the National Assembly to remain in office. The National Assembly, by a two-thirds vote of no confidence, can require the king to abdicate to be replaced by the next person in the line of succession. The position of chairman rotates on a yearly basis, beginning with the minister who received the most votes. The chairman of the council of ministers also serves as prime minister and head of government. On September 5, Minister of Agriculture Lyonpo Sangay Ngedup became chairman and prime minister.

There were 15 women in the 150-member National Assembly, and 2 women on the High Court. Women constituted 23 percent of civil service employees, and women held more than 30 percent of positions at the Ministry of Foreign Affairs. There was no provision for allocating a set number or percentage of parliamentary seats for women or members of minority groups.

All major ethnic groups were represented in the National Assembly, including 14 ethnic Nepalese. However, NGOs reported that ethnic Nepalese were underrepresented in the assembly.

*Government Corruption and Transparency.*—There were reports of government corruption during the year. The government took an active role in addressing the issue through the Public Accounts Committee in the National Assembly and the Royal Audit Authority, which monitored how government funds were spent. The anticorruption fraud alert system allowed citizens to post information on its website regarding corrupt practices.

There is no law providing for public access to government information; however, NGOs reported that the government regularly provided unclassified information upon request.

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

There were no legal human rights organizations in the country. The government regarded human rights groups established by ethnic Nepalese exiles—the Human Rights Organization of Bhutan, the People's Forum for Human Rights in Bhutan, and the Association of Human Rights Activists-Bhutan—as political organizations and did not permit them to operate in the country.

ICRC representatives conducted an annual prison visit, and the government provided them unhindered access to detention facilities, including those in southern districts inhabited by ethnic Nepalese. The ICRC stated that the government was open and forthright during prison visits and indicated that biannual checks were no longer necessary.

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

The law does not prohibit discrimination on the basis of race, sex, disability, language, or social status.

*Women.*—The law does not specifically prohibit domestic violence against women; however, the provisions of criminal law generally cover such crimes. Women have the same legal rights as men, and NGOs reported that women faced no overt discrimination and had equal access to health care, education, and public services. There was no evidence that rape or spousal abuse were extensive problems. However, NGOs reported that many women did not report rape because of cultural taboos or because they were unaware of their legal options.

The Rape Act contains a clear definition of criminal sexual assault and specified penalties. In cases of rape involving minors, sentences range from 5 to 17 years in prison. In extreme cases a rapist may be imprisoned for life. Spousal rape is illegal. There were few reported instances of sexual harassment.

Women were accorded respect in the traditions of most ethnic groups and participated freely in the social and economic life of the country. Inheritance law provides for equal inheritance among all sons and daughters, but traditional inheritance practices, which vary among ethnic groups, may be observed if the heirs choose to forego legal challenges. For example traditional inheritance laws for the majority of Buddhists stipulate that daughters inherit family land. As a result, 60 percent of rural women hold land registration titles. These inheritance practices favoring daughters reportedly accounted for the large numbers of women who owned shops and businesses. Tradition dictates that the most capable member of the family runs the household, which often resulted in the mother or eldest daughter holding this position. Within the household, men and women were relatively equal. Female school enrollment was 48.3 percent and was growing in response to government policies encouraging and funding universal attendance. Women in unskilled jobs generally were paid slightly less than men in the same positions. In 2004 women constituted approximately 30 percent of the formal work force. Dowries were not customary, even among ethnic Nepalese Hindus.

Questions related to family law, including divorce, child custody, and inheritance, were adjudicated by the Marriage Act of 1996. The minimum age of marriage for women was 18 years. The law provides for equal treatment for both men and women. Polygamy is allowed, provided the first wife gives her permission. Polyandry is permitted but rare. Marriages may be arranged by the marriage partners themselves as well as by their parents. The law requires that all marriages be registered.

The National Women's Association of Bhutan, active since 1981, tried to encourage women to improve their living standards and socio-economic status. In 2004 the government created a National Commission for Women and Children, which actively defended the rights of women and children during the year.

*Children.*—The government demonstrated its commitment to child welfare by rapidly expanding the number of primary schools, healthcare facilities, and immunization programs. Prior to the government's decision to focus on education in 1961, the country had 11 schools with approximately 400 students per school. There are currently 476 educational facilities with approximately 162 thousand students in the country. The government provides 11 years of universal, free, and compulsory primary school education, and primary school enrollment increased 4.4 percent per year since 1995, with enrollment of girls increasing at 5.6 percent. During the year the participation rate for children in primary schools was 88 percent. UN Children's Fund figures estimate net primary school enrollment to be between 66 to 69 percent. The government stated the rate of completion of 6 years of schooling increased from

48 percent in 1996 to 80 percent during the year. The Ministry of Education reported that 79 percent of enrolled students completed eight years of schooling. Completion rates for girls continued to surpass that of boys. Rural areas were home to 80 percent of all primary schools; unlike in previous years, schools in the southern part of the country were open.

There is no law barring ethnic Nepalese children from attending school; however, the government denied security clearance forms to children of ethnic Nepalese whom the government claimed were antinationals, thus denying them higher education. Exile groups claimed that Nepalese secondary-level students scoring highly on national exams, because of their inability to obtain a passport, were not always given the same advantages as other students, such as the chance to study abroad at government expense, particularly if they were related to prominent dissidents or refugees. The government refuted this claim, stating that all scholarships were merit based. Child labor was prevalent (see section 6.d.). Child abuse was rare.

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

*Persons with Disabilities.*—The law does not specifically protect the rights of citizens with disabilities; however, there was no evidence of official discrimination against persons with disabilities in matters of employment, education, access to health care, or in the provision of other state services. The law stipulates that new buildings must be constructed to allow access for persons with disabilities; however, the law was not always enforced. Under the Disability Prevention and Rehabilitation Program, the government seeks to provide medical rehabilitation for all types of disabilities, promote integration of children with disabilities into normal schools, support activities for vocational rehabilitation of adults with disabilities, and foster community awareness and social integration of persons with disabilities in community activities.

*National/Racial/Ethnic Minorities.*—In previous years the government committed numerous abuses against ethnic Nepalese. This led to the departure of an estimated 100 thousand ethnic Nepalese. At the time the government claimed it was concerned about the rapid influx and associated political agitation of ethnic Nepalese. Since then the government claimed that ethnic and gender discrimination in employment was not a problem. It stated that ethnic Nepalese constituted 25 percent of the population and that they filled 16 percent of the civil service and government employment; however, Bhutanese human rights groups active outside the country claimed that ethnic Nepalese actually make up approximately one-third of the country's population, and that the government deliberately underreported their numbers. Ethnic Nepalese claimed that they were subject to discrimination and prejudice. Specifically, ethnic Nepalese with relatives in refugee camps in Nepal were often denied "No Objection Certificates" (a type of security clearance) needed for education past the tenth grade and for access to government employment.

The law requires that the national dress be worn for official occasions and as a school uniform, and that the Dzongkha language be taught as a second language in all schools. No instruction in Nepali as a second language was required or offered. After the expulsion of many ethnic Nepalese in the early 1990s, discriminatory measures with regard to ethnic minority communities continued.

Drukpa Bhutanese have been resettled in the southern part of the country on land vacated by the ethnic Nepalese living in refugee camps in Nepal (see section 2.d.). Human rights groups maintained that this prejudiced any eventual outcome of negotiations over the return of the refugees to the country. The government maintained that ethnic Nepalese from the south occasionally were resettled on more fertile land in other parts of the country. The failure of the government to facilitate the return of ethnic Nepalese refugees reinforced societal prejudices against this group. In the same fashion the government's one-time only policy on the forced retirement of refugee family members in government service and the resettlement of Drukpa on land vacated by expelled ethnic Nepalese in the south reinforced prejudice against ethnic Nepalese. The government claimed that the resettlement scheme was part of a nationwide program to discourage migration to urban centers and reduce landless people's dependence on migrant farming.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form or join unions; however, there were no labor unions operating in the country during the year. The government maintained that, with very little industrialization, there was little labor to be organized. The Ministry of Employment reported in 2004 that the total labor force numbered 216,500 persons, 166,200 of whom worked in rural areas. In 2003

a labor ministry was established to analyze the country's labor situation and provide vocational training.

*b. The Right to Organize and Bargain Collectively.*—The law does not authorize collective bargaining or the right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The government prohibits forced or compulsory labor, and there were no reports that such practices occurred. The system of mandatory national work service was abolished in 1996. The government required community service to build local roads, schools, and hospitals. The government and NGOs stated that rural workers often volunteered to work on national projects and were paid slightly above the minimum wage of \$2.50 (100 ngultrums) per day. There was no evidence to suggest that the government subjected domestic workers to coerced or bonded labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law does not specifically prohibit forced or compulsory labor by children, but there were no reports that such practices occurred. There is no minimum age for employment; however, the minimum age of 18 was established "in all matters of the state." Children under 18 often performed agricultural work and chores on family farms and shops after school and during holidays. NGOs estimated that there were approximately 45 thousand persons under 18 who were working. A large majority of these children worked for their families.

*e. Acceptable Conditions of Work.*—A 1994 circular established wage rates, rules, and regulations for labor recruiting agencies. It also established the regulations for payment of worker's compensation. Wage rates were revised periodically, and started from a minimum of roughly \$2.50 (100 ngultrums) per day plus various allowances paid in cash or kind. This minimum wage provided a decent standard of living for a worker and family. The workday was defined as eight hours with a one-hour lunch break, and employers must grant regular days of leisure. Work in excess of this must be paid at one and one-half times normal rates.

Civil service regulations require equal pay for equal work for men and women. All citizens are entitled to free medical care. Persons who could not receive adequate care within the country the government transported to other countries (usually India) for treatment. Workers are eligible for compensation in the case of partial or total disability, and, in the event of death, their families are entitled to compensation. Existing labor regulations do not grant workers the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

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## INDIA

India is a longstanding multiparty, federal, parliamentary democracy with a bicameral parliament and a population of approximately 1.1 billion. Manmohan Singh was named prime minister following his Congress party-led coalition's victory in the April–May 2004 general elections in which 675 million citizens participated. The 2004 general elections, the various 2004 state assembly elections, as well as the February state elections in Arunachal Pradesh Jharkhand, Bihar and repoll in October/November, and Haryana, were considered free and fair, despite scattered episodes of violence. While the civilian authorities generally maintained effective control of the security forces there were frequent instances in which elements of the security forces acted independently.

The government generally respected the rights of its citizens; however, numerous serious problems remained. Government officials used special antiterrorism legislation to justify the excessive use of force while combating active insurgencies in Jammu and Kashmir and several northeastern states. Security force officials who committed human rights abuses generally enjoyed de facto impunity, although there were reports of investigations into individual abuse cases as well as punishment of some perpetrators by the court system. Corruption was endemic in the government and police forces, and the government made little attempt to combat the problem, except for a few instances highlighted by the media. The lack of firm accountability permeated the government and security forces, creating an atmosphere in which human rights violations often went unpunished. Although the country has numerous laws protecting human rights, enforcement was lax and convictions were rare. Social acceptance of caste-based discrimination remained omnipresent, and for many, validated human rights violations against persons belonging to lower castes. The additional following human rights problems were reported:

- extrajudicial killings and killings of persons in custody
- torture and rape by police and security forces
- poor prison conditions, lengthy pretrial detention without charge, and prolonged detention while undergoing trial
- occasional limits on press freedom and freedom of movement
- harassment and arrest of human rights monitors
- corruption at all levels of government
- legal and societal discrimination against women
- forced prostitution, child prostitution, and female infanticide and feticide
- trafficking in women and children
- discrimination against persons with disabilities
- discrimination and violence against indigenous people and scheduled castes and tribes
- violence based on caste or religion
- exploitation of indentured, bonded, and child labor.

Separatist guerrillas and terrorists in Kashmir and the northeast committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents also engaged in widespread torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Government forces continued arbitrary and unlawful deprivation of life of those in custody. Police and prison officers also committed extrajudicial killings of suspected insurgents and suspected criminals by the use of staged encounter killings. Terrorist and militant groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir, several northeastern states, and in the Naxalite belt in the eastern part of the country (see section 1.g.).

The Home Ministry reported that security forces killed 927 insurgents and terrorists during the year. The ministry also reported that insurgent and terrorist attacks in Jammu and Kashmir declined in 2004 with 733 civilians (including 92 women, 32 children, and 62 political workers), 330 security force members, and 976 insurgents killed. Security forces often used staged encounter killings to cover up the murders of captured non-Kashmiri insurgents and terrorists from Pakistan or other countries, often after torturing them. Human rights groups accused security forces of targeting suspected terrorists, militants and their suspected supporters. There were no widely accepted data on the magnitude of extrajudicial killings in Jammu and Kashmir, with estimates or reports depending on the political orientation of the source. In 2003 the Jammu and Kashmir state human rights commission received 15 complaints relating to custodial deaths and 27 complaints relating to disappearances. Human rights organizations sought to clarify these cases by submitting numerous requests to Jammu and Kashmir authorities, but they received inadequate and unsatisfactory responses.

According to human rights activists, press reports, and anecdotal accounts, the bodies of persons suspected of terrorism and detained by security forces in Jammu and Kashmir often had bullet wounds and/or marks of torture. The South Asian Human Rights Documentation Center (SAHRDC) reported that the number of such custodial deaths decreased slightly during the year, most likely due to the overall decline in infiltrations, as well as a new emphasis by the government on reducing human rights violations. Custodial deaths however, remained a serious problem.

On October 4, the Laopora Police lodged a First Information Report against 10 army officers accused of the February 2004 killing of 5 civilian porters used as human shields by security forces in Kashmir. The case remained open at year's end. In November residents of Pattan, a village 17 miles from Srinagar alleged that militants killed 2 village men after the army used them as human shields in an operation. After protests erupted, the authorities promised to investigate and the investigation remained open at year's end.

In July security forces killed three teenaged boys they mistook for terrorists in the Kupwara area of Kashmir. Security forces maintained that the boys were outside at night during a curfew and ran away when challenged by the officers. The killing sparked widespread protests in the area, and the state government ordered an inquiry, which was not completed by year's end. On July 26, the army offered compensation and an apology to the boys' families.

At year's end no action was taken on the Manorama Devi rape/custodial death case from July 2004. The Upendra Commission, formed in November 2004 to investigate the Devi case, submitted its report to the state government. The inquiry was concluded without the DNA fingerprints and blood samples of the Assam Rifles personnel on duty the night of the incident, and the contents of the report were not made public. On June 23, the state high court directed the Manipur government to send the report to the Union Home Ministry for the Center's action and to make the report public. On August 31, the Manipur government appealed the New Delhi High Court's decision. The appeal was pending at year's end.

Authorities often delayed prosecutions in custodial death cases. In November the National Crime Records Bureau reported two cases of custodial rape in 2004 and noted that authorities completed two trials in 2003 and 2004 with no convictions.

In an attempt to expedite prosecutions, in May authorities updated a law requiring a coroner to conduct a medical examination within 24 hours of a death in custody.

The Asian Center for Human Rights (ACHR) reported the Jammu and Kashmir government ordered 54 inquiries into alleged extra-judicial killings and other human rights violations in 2004 and completed only one. The Home Ministry reported in December that custodial deaths decreased from 183 in 2002–03 to 136 for the 2004 calendar year. In April 2004 Chief of Army Staff General N.C. Vij reported that of 1,340 allegations of human rights abuses reportedly committed from 1990 to 2000 in Jammu and Kashmir, evidence substantiated 33, and 71 personnel had been punished. In May 2004 the National Human Rights Commission (NHRC) reported that during the past 14 years of insurgency in Jammu and Kashmir, the army had punished 131 of its personnel for human rights violations, sentencing 2 persons to life sentences and 33 others to jail terms of 11 to 12 years; the army dismissed 11 personnel and ordered various other punishments for the remainder. The Ministry of Defense stated that since its establishment in 1993, the army human rights office received 342 reports of human rights violations by armed forces in the northeast. The office investigated 318 cases and determined that 290 allegations were baseless. The army acted on the remaining 28 cases, punishing 63 army personnel with penalties ranging from life imprisonment to dismissal and censure. Human rights activists commented that the actual number of abuses was much higher than those reported by the military.

In August the Central Bureau of Investigation recommended the prosecution of four army officers for the killing of five civilians in a staged encounter killing in 2000. The Central Administrative Tribunal ruled the related 2003 suspension of Senior Superintendent of Police Khan was illegal and reinstated him.

In January soldiers engaged in an altercation with passengers on a train near Shikohabad railway station in Uttar Pradesh and pushed five passengers off the moving train, killing them. The Railway Police arrested the soldiers and ordered an investigation which remained open at year's end.

According to press reports, members of the security forces rarely were held accountable for staged encounter killings. In February security forces killed Zahoor Ahmed Bhat, a car mechanic, in Magam, Kashmir, while he was returning home from a holiday. On May 6, the army ordered an inquiry into the deaths of two women and a child killed in an encounter between the Assam Rifles and Kuki insurgents in Manipur the day before. The inquiry continued at year's end.

Although the authorities generally did not report encounter deaths that occurred in Jammu and Kashmir to the NHRC, the Association of Parents of Disappeared Persons (APDP) claimed that as of June 2004, there had been 54 custodial deaths since the current Jammu and Kashmir state government assumed office in 2002.

The NHRC reported 136 deaths in police custody and 1,357 deaths in judicial custody countrywide from the beginning of 2004 until March. The NHRC recommended approximately \$10 thousand (Rs. 400 thousand) as compensation in 5 cases of death in police custody, and \$5,681 (Rs. 250 thousand) in the three cases of deaths while in judicial custody.

During the year the killing of civilians continued in the course of counterinsurgency operations in Jammu and Kashmir. Human rights activists stated that accurate numbers were not available due to limited access to the region, but ACHR alleged that 733 civilians were killed in 2004.

The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remained in effect in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura, where active and violent secessionist movements existed. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrants (see section 1.d.). Human rights groups alleged that security forces operated with virtual impunity in areas under the act.

Accountability by the Jammu and Kashmir government remained a serious problem. Human rights groups estimated that 30 to 35 thousand persons died during the two decades of conflict in Jammu and Kashmir, but there were no reliable estimates of the number of deaths resulting directly from abuses. The Jammu and Kashmir governor, Lt. General S.K. Sinha, reported 39 thousand deaths during the conflict.

Security forces committed thousands of serious human rights violations over the course of the insurgency, including extrajudicial killings, disappearances, and torture (see section 1.g.).

Human rights groups noted that police officials often refused to turn over bodies of dead suspects in cases of suspected staged encounters. The bodies of dead suspects were often cremated before their families could view them. Despite a 2002 Supreme Court order requiring the central government and local authorities to conduct regular checks on police stations to ascertain the incidence of custodial violence, most police stations failed to comply.

There were reports of deaths in custody resulting from alleged torture and other abuses. For example, in June in West Bengal, a human rights nongovernmental organization (NGO) reported that Sunil Roy was detained for allegedly being a pick-pocket and was later found dead in the police station. While police claimed he had hanged himself with his belt, the NGO claimed that, per regulations, belts were required to be removed prior to incarceration, and that Roy had other injury marks on his body.

During the year deaths in custody were common, especially for alleged insurgents. From 2002–03, the Home Ministry reported that custodial deaths increased from 1,340 in 2002 to 1,462 by the end of 2003. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases.

In January the Mumbai high court sentenced 11 policemen to life imprisonment for the custodial death of Dilip Ghosale, who was beaten and killed while in police custody in 1987. In February Punjab authorities filed a case against three policemen for the custodial death of a *dalit*, a person belonging to a low caste, named Satpal. The death sparked widespread protests in the area. Also in February, the army killed two civilians in Shopian, Kashmir. The security forces claimed they were militants and buried them without a proper investigation. The district magistrate ordered the exhumation of the bodies and an inquiry, but at year's end no action was taken.

In February police killed Faisal Siddiqui in Delhi in an alleged encounter. At year's end police had not filed any charges. In March violence erupted between police and residents of east Delhi following the death of Parmeshwar Dayal, a businessman in police custody. Police claimed Dayal was kidnapped by unknown persons, later rescued by the police, and then committed suicide.

In March the Maharashtra central investigation division arrested four Mumbai police officers and charged them with the August 2004 custodial killing of Khwaja Yunus. At year's end, the four remained in police custody awaiting trial. According to media reports, Mumbai police transferred officers linked to encounter killings from the crime branch, decreasing staged encounter killings in Maharashtra state from 94 reported in 2001 to 11 in 2004.

In May Mumbai police arrested two Railway Police Protection Force (RPF) constables for the killing of railway porter Vijay Singh. After the discovery of Singh's body on the terrace of the Mumbai Central Railway Police Station, police stated there was no record of his arrest, but eye-witnesses reported seeing the two constables taking him into custody. At year's end, both constables were suspended and charges were pending.

In June Assam Rifles soldiers shot and killed Kesarjit Singh, the nephew of a minister in Manipur, after picking him up from his residence. His bullet-ridden body was found in the outskirts of Nongada village. No charge had been filed in the case.

Human rights activists reiterated during the year that there was uneven compliance with a 1993 NHRC directive requiring district magistrates to report to the commission all deaths in police and judicial custody. The NHRC had emphasized that it regarded failure to report as tantamount to a cover-up. The NHRC had not released information detailing which states had attempted to comply with the directive, but the NHRC reported that no state fully complied with this order at year's end.

Despite the purported integration of former Special Operations Group (SOG) personnel into regular police units in Jammu and Kashmir in 2003, former SOG personnel continued to operate in cohesive anti-insurgency units, and regular reports of human rights violations by its members persisted. For example, in August 2004, a unit consisting of former SOG personnel, in coordination with the Border Security Force, raided the house of Manzoor-ul Islam, a suspected insurgent, and allegedly



took him into custody. The unit reportedly killed him in an encounter the following day. No action was taken in this case and none was expected. ACHR alleged that SOG forces continued to be responsible for arbitrary killings.

Counterterrorists were former separatist guerrillas who surrendered but who were permitted by the Jammu and Kashmir government to retain their weapons and paramilitary structure and were inducted into police auxiliary units. Government agencies funded, exchanged intelligence with, and directed the operations of counterterrorists as part of the counterinsurgency effort. During the year killings and abductions of suspected and other persons by progovernment counterterrorists continued to be a significant problem in Jammu and Kashmir, although the number of such instances has declined substantially since the 1990s.

Counterterrorists occasionally searched persons at roadblocks (see section 2.d.) and were present in some rural areas of the Kashmir Valley. The Jammu and Kashmir government, through its sponsoring and condoning of extrajudicial counterterrorist activities, was responsible for killings, abductions, and other abuses committed by these groups. According to a human rights activist in Jammu and Kashmir, there were approximately 200 counterterrorists operating in the region during the year.

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (see section 3). Separatist guerrillas and terrorists attempted to kill numerous senior politicians, making several attempts against Chief Minister Mufti Mohammed Sayeed, People's Democratic Party leader Mehbooba Sayeed, National Conference President Omar Abdullah and his father, former chief minister Farooq Abdullah, as well as many ministers and dozens of other activists in an array of political parties.

At year's end, militants and terrorists killed numerous politicians and political workers. ACHR reported that 62 political activists were killed in 2004. For example on October 18, insurgents killed the Jammu and Kashmir Education Minister Ghulam Nabi Lone and wounded secretary of the Communist Party of India-Marxist (CPI-M) Mohammed Yusuf Tarigami in Srinagar. Also in Srinagar on May 3, insurgents killed Muhammad Ramzan Mian, the chairman of the Pattan Municipal Committee in north Kashmir, and three policemen while Mian was shopping in the town market.

Countrywide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgency (see sections 1.b., 1.c., 1.d., and 1.g.). According to human rights activists and journalists, during the year a few Naxalites (Maoist guerrillas) in eastern and central parts of the country (including Madhya Pradesh, Andhra Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, parts of Uttar Pradesh, and Maharashtra) who surrendered were allowed to retain their weapons and worked for the police as "anti-People's War Group (PWG) officers." Human rights groups alleged that police used former Naxalites to kill current Naxalites and human rights activists with Maoist links. Police denied the charges, attributing such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year.

During the year, there were numerous instances of abuse by insurgent and terrorist groups in both Jammu and Kashmir and the northeastern states (see section 1.g.).

*b. Disappearance.*—Although government complicity was not always confirmed, scores of persons disappeared in strife and insurgency-torn areas during the year.

The latest figures available from the Jammu and Kashmir government from 2003 stated that 3,931 persons had disappeared in the state since the insurgency began in 1990, compared with an APDP estimate which put the number at approximately 8 to 10 thousand. In September ACHR reported that more than six thousand cases of disappearances remain unresolved in the state. In May 2004 the government reported that many of those listed as missing by the APDP in 2003 had joined insurgent groups, had been killed, were in custody, or were in Pakistan.

On May 2, in response to a petition filed by the father of Mohammad Hussain Ashraf, a boy with mental disabilities arrested by an army patrol in Jammu and Kashmir in 2003, the high court issued a non-bailable warrant for the arrest of Pantha Chowk station house officer Ghulam Ahmed Bhat for failing to register a case against troops involved in the disappearance of Ashraf and for disregarding a court order.

In March nine years after the death of human rights lawyer Jalil Andrabi, the Jammu and Kashmir government officially closed the case without any arrests.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, numerous persons continued to be held by military and paramilitary forces. Human rights activists feared that many of these unacknowledged prisoners

were subjected to torture and some were killed extrajudicially (see sections 1.a. and 1.c.).

The government maintained that screening committees administered by the state governments provided information about the unacknowledged detainees to their families. Other sources indicated that families could only confirm the detention of their relatives by bribing prison guards. In February authorities released 34 former militants from custody, and in October, the Jammu and Kashmir government announced the release of 44 detainees previously held under the 1978 Public Safety Act.

The government failed to hold hundreds of police and security officials accountable for serious human rights abuses committed during the Punjab counterinsurgency of 1984–94, despite the presence of a special investigatory commission. In March prosecution lawyer and human rights activist Brinjinder Singh Sodhi claimed that he was threatened by a police officer accused in the disappearance case of human rights activist Jaswant Singh Kalara. Kalara, who claimed the government was responsible for over two thousand extrajudicial killings of Sikhs during its counterinsurgency campaign, was kidnapped in 1995, and his body was never found. On November 18, 10 years after the crime, 2 police officers, Jaspal Singh and Amarjit Singh, were found guilty of murdering Kalara and destroying evidence related to the case, and they were sentenced to life imprisonment. The courts found four other officers guilty of kidnapping with the intent to murder and sentenced them to seven years imprisonment. No action was taken against the police official who had threatened Sodhi.

During the year the Central Bureau of Investigation (CBI) claimed to be pursuing charges against dozens of police officials implicated in the 1980s for hundreds of murders and secret cremations. NGOs and Human Rights activists alleged that police in Amritsar, Majitha, and Tarn Taran districts secretly disposed of approximately two thousand bodies of suspected Sikh insurgents they had murdered. Security forces abducted, extrajudicially executed, and cremated the alleged insurgents without the knowledge or consent of their families during the height of Sikh insurgency in Punjab.

The NHRC continued to investigate 2,097 cases of illegal murder/cremation that occurred between 1984 and the early 1990s. The NHRC asked families whose members had disappeared to come forward and provide evidence. The NHRC has not released its findings, and no significant progress was made in bringing to justice those responsible for the killings. Families of victims petitioned the NHRC for redress, and a small percentage received a response in July 2004.

In July the NHRC directed the CBI to give the Punjab government access to documents regarding the illegal murder and cremation of 64 persons by the Punjab police during the insurgency.

There were credible reports that police throughout the country often failed to file legally required arrest reports, resulting in hundreds of unsolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, pointing to the lack of an arrest record.

Insurgents in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, obtain the release of detained comrades, and extort funds. At the end of 2004 the government verified that few kidnappers were arrested or prosecuted. Insurgents and terrorists in Jammu and Kashmir and the northeast killed some kidnapping victims (see sections 1.a. and 1.g.). In March in Rajouri district, insurgents kidnapped Mohameed Naseeb, who was later killed during a fight between militants and security forces. Also in March, militants belonging to the insurgent group Hizbul Mujahidin killed three security force members in Srinagar.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and generally did not allow for confessions extracted by force to be admissible in court; however, authorities often used torture during interrogations to extort money and as summary punishment.

The ACHR alleged that deaths in custody were a severe problem and that police regularly used torture. Because many alleged torture victims died in custody, and other victims were afraid to speak out, there were few firsthand accounts. Marks of torture, however, were often found on the bodies of deceased detainees. The prevalence of torture by police in detention facilities throughout the country was reflected in the number of deaths in police custody (see section 1.a.). Police and jailers typically assaulted new prisoners for money and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police officers were subject to prosecution for such offenses, the government often failed to hold

them accountable. According to Amnesty International (AI), torture usually took place during criminal investigations and following unlawful and arbitrary arrests.

In February the Jalandhar district police tortured and killed a dalit youth when he refused to confess to theft. In May in Tamil Nadu, police arrested Mariappan, a person belonging to a lower caste, for stealing valuables from the house where he was employed. Mariappan told media that police inflicted serious injuries on him while he was in their custody.

In June two persons were killed and a dozen injured when RPF personnel fired at a mob that formed after the RPF severely beat a ticketless traveller at Dadri railway station in Uttar Pradesh. The government ordered an inquiry and awarded compensation to those injured and to the next of kin of the deceased.

In August eye-witnesses told the media that Mumbai assistant commissioner of police Arun Desai beat Taj Mohammed, a shopkeeper, on the head with a hockey stick, causing a severe head injury. Desai then arrested Mohammed for assault and the use of criminal force to deter a public servant from discharge of his duty. No action was taken against Desai.

There were incidents in which police beat journalists (see section 2.a.), demonstrators (see section 2.b.), and Muslim students (see section 2.c.). Police also committed abuses against indigenous people (see section 5).

Police used violence or the threat of violence to extort money and favors. In January Mumbai police constable Sunil Kamble beat a local shopkeeper, Roop Narayan Yadav, until he was unconscious, after Yadav asked Kamble to pay for his purchases. After an internal probe, the Mumbai police suspended Kamble, and charges were pending at year's end.

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty filing complaints, as local police allegedly were instructed not to open a case without permission from higher authorities. In addition, under the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990, no "prosecution, suit, or other legal proceeding shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers of the act," without the approval of the central government. The act gives security forces the authority to shoot suspected lawbreakers and those disturbing the peace, and to destroy structures suspected of harboring militants or containing weapons. Human rights organizations alleged that this provision allowed security forces to act with virtual impunity (see section 1.d.).

The rape of persons in custody was part of a broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behavior by police, and the likelihood that many rapes went unreported due to the victims' shame and fear of retribution. However, legal limits placed on the arrest, search, and police custody of women appeared to reduce the frequency of rape in custody. There were no recent NHRC data on the extent of custodial rape.

In February a soldier with the Tripura State Rifles raped a minor girl in West Tripura district. Public outrage led to his arrest.

According to 2002 records from the National Crime Records Bureau (NCRB), the latest available, courts tried 132 policemen for custodial rape, but only 4 were convicted. The Ministry of Defense reported that it filed 17 rape cases and 10 murder cases against army personnel from 2003–2004. To date, one rape case and five murder cases ended in guilty verdicts. In the remaining cases, the investigations remained ongoing or the charges were proved false.

In January a report prepared by retired judge Chanambam Upendra Singh found 2 members of the 12th grenadiers army unit guilty of raping 15-year-old Nandeibam Sanjita Devi in Manipur in 2003. Devi committed suicide after recounting her ordeal to her mother.

In February an Assam Rifles constable allegedly raped a 12-year-old girl in the Karbi Anglong district of Assam, sparking widespread protests from various women's organizations. Medical examination confirmed the rape, and a case was filed against the constable. Police arrested the soldier and the two women who assisted in the rape, and all three were in custody at year's end.

In September authorities charged two members of the Bihar police with the custodial rape of a 35-year-old widow who was detained on a murder charge. The court ordered an inquiry in the case, which remained ongoing at year's end.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among non-combatants in insurgency-affected areas (see section 1.g.), but these incidents were not included in NHRC statistics, as the NHRC does not have direct investigative authority over the military.

A Major Rehman was dismissed in January from military service after being convicted by a court martial for his involvement in the November 2004 rape of a mother and daughter during a search operation near Handwara in Kashmir. Also in January, the army dismissed a rifleman from service after a court martial convicted him of molestation of an elderly woman in Pahalgam.

In July 2004 the National Commission for Women (NCW) directed all mental hospitals to check the legitimacy of insanity certificates after receiving reports of husbands falsely committing their wives to obtain divorces. The NCW issued the edict after authorities accused a resident psychiatrist at the Agra Mental Asylum of issuing false insanity certificates for this purpose. On July 23, the Agra police arrested the doctor, who remained in judicial custody at year's end.

In 2004 the government gave the NHRC the authority to recommend interim compensation in cases relating to human rights abuses by the armed forces. Officers of the rank of colonel were designated at the command, corps, division and counter-insurgency headquarters to monitor human rights issues. Under the guidelines, the NHRC cannot charge a member of the armed forces of a human rights abuse without government permission. The NHRC reported a continued decline in reported human rights abuses by the military, with 16 cases reported in 2003, and only 4 in 2004. The NHRC reported that it registered 756 cases against the military, 172 against paramilitary forces, and 109,902 against the police since 2001.

*Prison and Detention Center Conditions.*—Prison conditions were harsh, life-threatening, and did not meet international standards. Prisons were severely overcrowded, and food and medical care inadequate. For example, the Mumbai-based Criminal Justice Initiative reported that there were three thousand inmates in Bombay Central Jail, which has an actual capacity of 800. Human rights organizations reported that 60 to 75 percent of all detainees were in jail awaiting trial, drastically contributing to overcrowding. They also asserted that approximately 65 percent of those detained were found innocent. Due to persistent inefficiencies in the judicial system, there were numerous instances in which detainees spent more time in jail under pretrial detention than they would have if found guilty and sentenced to the longest possible term (see section 1.d.).

In June 77-year-old Machang Lalung was released after spending 54 years in jail without a trial. Lalung was arrested in 1951 from Silsilang in Assam for "causing grievous hurt," a crime which carries a maximum of 10 years' imprisonment. Shortly after his arrest, according to human rights activists, police withdrew the charges against him due to a lack of evidence, and transferred him to a psychiatric institution, and then forgot him. In 1967, the authorities at the institution certified Mr. Lalung as "fully fit" and said he should be released. Instead of releasing Lalung, police transferred him to another jail, once again without trial. Lalung was released only after human rights activists learned of his case, brought it to the attention of the NHRC, and paid a personal bond of two cents (one rupee). Magistrate HK Sarma, who released Mr. Lalung, stated "Neither the executive nor the judiciary avoid responsibility for Machang Lalung's detention for so long on the grounds of mere procedure or technicalities."

The case of Machang Lalung was the most egregious case out of five of the lengthiest cases of prisoners held without trial for extended periods. The others were: Khalilur Rehman, incarcerated for 35 years; Anil Kumar Burman, incarcerated for 33 years; Sonamani Deb, incarcerated for 32 years; and Parbati Mallik, incarcerated for 32 years.

The NHRC subsequently requested Assamese authorities to submit reports on five other pretrial prisoners presently detained at the LGB Regional Institute of Mental Health in Tezpur, Assam.

As of July, the 8 central prisons, including Tihar Jail and the Rohini district jail in Delhi, had an official capacity of 5,648, but held 13,160 prisoners.

According to one NHRC report, a large proportion of the deaths in judicial custody were from natural causes, in some cases aggravated by poor prison conditions (see section 1.a.). Tuberculosis caused many deaths, as did HIV/AIDS. The NHRC assigned its special rapporteur and chief coordinator of custodial justice to ensure that state prison authorities performed medical check-ups on all inmates. By year's end, only a few examinations had been performed.

By law juveniles must be detained in rehabilitative facilities, although at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.

During the year custodial deaths at the hands of police continued. In September the Assam Human Rights Commission asked the state government to take appropriate action against jail authorities for failing to properly treat Mithinga Daimary and Ramu Mech, United Liberation Front of Assam (ULFA) leaders who were ill while awaiting trial. Mech was subsequently taken to Delhi for treatment. In Au-

gust in Tezpur, ULFA Chief Advisor Robin Handique died in detention after he was allegedly denied proper medical care. An inquiry was pending at year's end.

In June 2004 the Delhi High Court found several police officers guilty in the custodial death of an auto-rickshaw driver, and fined them each approximately \$11 thousand (Rs. 530 thousand).

While local authorities often attempted to hide custodial killings, the NHRC and the courts investigated those cases brought to their attention and prosecuted some perpetrators. In most cases, the courts awarded monetary compensation of between \$400 (Rs. 17,500) and \$2,200 (Rs. 96 thousand) to the next of kin. NGO sources stated that relatives often had to pay bribes to receive the compensation awarded, and in many cases never received it at all.

Some NGOs were allowed to work in prisons, within specific governmental guidelines, but their findings remained largely confidential as a result of agreements made with the government. Although custodial abuse was deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns.

According to the Home Ministry's 2004 annual report, the International Committee of the Red Cross (ICRC) visited 55 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and all facilities where Kashmiris were held elsewhere in the country. During the year the ICRC visited 28 places of detention in Jammu and Kashmir and found that 1,356 persons were detained—524 of them newly registered. The ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states (see sections 1.c. and 4). During the year the ICRC stated that it continued to encounter difficulties in maintaining regular access to persons detained in Jammu and Kashmir.

In a report issued in January 2004 the UN Special Rapporteur on Torture commented that torture and detentions continued in the country, especially in Jammu and Kashmir, and noted the government's continued refusal to extend him an invitation to conduct investigations. A report published during the year of the Special Rapporteur Civil and Political Rights, listed cases of torture by the government. It noted that in June 2004 police beat Gulzar Ahmed Daded of Sangerwani, Pulwama District, Kashmir, until he was unconscious because he protested against a death in custody. Daded was taken to a hospital in Srinagar, where he died in July 2004. It also reported that in March 2004, police used excessive force during a march held by the APDP in Srinagar, Jammu and Kashmir. The police dispersed the march and hit participants with canes, dragged women by their hair, beat them and ripped off their clothes. Police arrested several APDP members, human rights activists, as well as family and friends of the disappeared and took them into police custody for unlawful assembly and assault of police officers; they were released on bail after seven hours.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but both occurred during the year.

*Role of the Police and Security Apparatus.*—Although the 28 state governments have primary responsibility for maintaining law and order, the central government provides guidance and support. The Ministry for Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and provides training for senior police officers of the state-organized police forces. The civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous serious human rights abuses.

Corruption in the police force was commonplace and severely diminished its effectiveness. Officers at all levels acted with relative impunity and were rarely held accountable for illegal actions. When an officer was found guilty of a crime, the most common punishment was transfer to a different position or post. Human rights activists and NGOs reported that bribery was often necessary to receive police services.

For example on November 3, the NDTV news channel caught Delhi Police Inspector Satya Raj demanding \$600 (Rs. 26 thousand) from a dead man's family for return of his body. At year's end, police had not filed charges against Raj.

Corruption in the police force led to cases of illegal and arbitrary arrest during the year. For example in January, authorities in Mumbai suspended five police officers for planting evidence and framing a merchant in October 2004. The merchant was wrongfully made to spend five months in pretrial detention. At year's end, charges against the officers were pending.

In April two scrap dealers, Sadaf Nazar Khan and Azaz Khan complained to Mumbai police that a police inspector kidnapped them, illegally detained them,

robbed them of approximately \$2,800 (Rs. 120 thousand), and asked for further payment from relatives for their release. The Mumbai police suspended the inspector and two other police officers, and at year's end, an inquiry was ongoing.

In July authorities arrested B.B. Patre, a senior superintendent of police in Maharashtra, for threatening a Dhule city kerosene dealer with arrest if Patre was not paid a \$23 thousand (Rs. 1 million) bribe.

NGOs and human rights activists alleged that police often committed human rights violations with impunity and that police corruption was pervasive and acknowledged by many government officials. The NHRC reported that the majority of complaints it received were against police. Although the Malimath Committee on Judicial Reform issued a report in 2003 proposing police reforms, measures had not been implemented at year's end. Some human rights activists maintained that the committee's main goal was to increase arrests and prosecutions instead of protecting the rights of the accused. Punjab Director General of Police A.A. Siddiqui reported that police had received 17 thousand complaints in 2004, including 6,261 from the Punjab State Human Rights Commission, 376 from the NHRC, and 46 from the NHRC for Scheduled Castes and Scheduled Tribes. The media reported that courts found 59 police officers guilty of violating human rights in Punjab in 2004.

*Arrest and Detention.*—The law requires that detainees be informed of the grounds for their arrest, be represented by legal counsel, and, unless held under a preventive detention law, arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, thousands of criminal suspects remained in detention without charge during the year, adding to already over-crowded prisons.

The law provides arrested persons the right to be released on bail, and prompt access to a lawyer; however, those arrested under special security legislation received neither bail nor prompt access to a lawyer in most cases. Court approval of a bail application is mandatory if police do not file charges within 60 to 90 days of arrest. In most cases, bail was set between \$11 (Rs. 500) and \$4,500 (Rs. 200 thousand).

In September 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). Nonetheless, SAHRDC reported that more than 1,000 persons remained in detention awaiting prosecution under lapsed special terrorism legislation, and that cases opened under POTA and Terrorism and Disruptive Activities Act (TADA) continued through the judicial system. On November 8, the Supreme Court acquitted two men, Daljit Singh Bittoo and Gursharan Singh Gama, previously sentenced to life imprisonment under TADA in June 2004. The defense argued successfully that the deputy superintendent of police had a personal vendetta against the two men and used TADA to imprison them.

TADA courts curtailed many legal protections provided by other courts. For example, defense counsel was not permitted to see prosecution witnesses, who were kept behind screens while testifying in court, and confessions extracted under duress were admissible as evidence (see section 1.c.).

POTA contained a sunset feature, which gave the central POTA review committee one year to review all existing POTA cases. The government established three central review committees to review the cases registered under POTA. The committees were required to review all cases registered under POTA by September 20, but at year's end, numerous cases remained unreviewed. This clause also allowed the government to make new arrests under POTA, despite its repeal, if the arrests were tied to an existing POTA case. The government could issue a new indictment on a case opened five years earlier under POTA, even if the government was never associated with the case. It can also extend the one-year limit for reviews; however, at year's end, it had not done so. The law provides that the review committees constituted by the government shall review all cases registered under POTA by September 20. In June the POTA review committee reported that there were 11,384 persons wrongfully charged under POTA who instead should be charged under the regular law.

UAPA and POTA continued to be used to hold people in jail for extended periods prior to the filing of formal charges. Human rights groups reported that the revised UAPA contained important improvements over the POTA. For example, it does not allow coerced confessions to be admitted as evidence in court.

In February the NHRC announced comprehensive guidelines regarding arrest, which included establishing reasonable belief of guilt; avoiding detention if bail is an option; protecting the dignity of those arrested; not allowing public display or parading, and allowing access to a lawyer during interrogation. Police often ignored these guidelines.

In June Daljit Singh Bittu, president of the Shiromani Dal Khalsa, a group that supported a separate Sikh state, and an associate were sentenced to life imprisonment by a special TADA court for the killing of Ashok Bedi, son of a former police officer, in June 1986.

In September Simranjit Singh Mann, president of the Shiromani Akali Dal (Mann), was released from the Ludhiana central jail after 78 days in prison. He had been arrested for making pro-Khalistan statements in Sangrur, Punjab. Human rights activist and lawyer Ranjan Lakhanpal alleged that Punjab police beat and tortured Mann while in custody.

At year's end the Bihar government did not respond to a September 2004 petition urging the withdrawal of all TADA cases filed against landless laborers.

Police routinely resorted to arbitrary and incommunicado detention, denied detainees access to lawyers and medical attention, and used torture or ill treatment to extract confessions (see section 5.). Human rights experts claimed that discrimination and custodial torture of those too poor to afford legal assistance was common. During the year the media reported that lower caste individuals were more likely to be illegally detained than others. Human rights activists maintained that the government increasingly avoided prosecuting security officers involved in illegal conduct, by providing financial compensation to victims' families in lieu of punishment. In some instances victims or their families who distrusted the military judicial system petitioned to have their cases transferred to a civil court. The NHRC has no jurisdiction over any courts, including military courts.

During the year the media reported that 217 Muslims arrested in connection with the 2002 Tiffin bomb case, the 2003 killing of former Gujarat chief minister Haren Pandya, the 2003 Akshardham temple bombing, and the 2002 Godhra train arson case, remained in custody in Gujarat under POTA. On June 29, a special POTA court dismissed POTA charges related to the 2002 Tiffin Bomb case against Munawar Beg Mirza; however, he continued to be an accused in the same case under the penal code. In June the POTA review committee recommended that 131 of the Godhra accused not be charged under POTA. The Gujarat government rejected the recommendation, contending that there was clear evidence of conspiracy in the train arson.

Throughout the year authorities in Jammu and Kashmir repeatedly detained Kashmiri separatist leaders such as Shabir Shah, Chairman of the Jammu and Kashmir Democratic Freedom Party, Yasin Malik, Chairman of the Jammu and Kashmir Liberation Front (JKLF), and Syed Ali Shah Geelani, Chairman of the hardline faction of the All Parties Hurriyat Conference (APHC), for short periods of time ranging from several hours to one day, usually to prevent their participation in demonstrations, funerals, or other public events. For example in January, Mohammed Yasin Malik and Shabir Ahmed Shah were among 30 people detained in Baramuula while participating in a demonstration against civic elections. They were released later in the day.

There were several incidents during the year in which Tamil Nadu police arrested activists and demonstrators without a proper warrant. In September according to media reports, Chennai police arrested over three thousand activists belonging to the Communist Party of India (Marxist), including a state unit secretary and other legislators.

In September the Madras High Court ordered the Tamil Nadu chief of police to investigate the illegal detention and custodial torture of four persons allegedly taken into custody to pressure an associate to withdraw a writ petition against the state government. The high court judge granted bail to the four on September 14.

In August 2004 the home minister informed parliament that the POTA review committee had received 262 complaints during the year. Of these, the committee ruled in favor of the accused in 18 cases, rejected 33 complaints, and disposed of 10 for unspecified reasons. The remaining 201 remained pending at year's end.

The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country—except for Jammu and Kashmir—without charge or trial for as long as one year on loosely defined security reasons. State governments must confirm the detention order, which was reviewed by an advisory board of three high court judges within seven weeks of the arrest. NSA detainees were permitted visits by family members and lawyers, and must be informed of the grounds of their detention within 5 days (10 to 15 days in exceptional circumstances). According to press accounts, 32 persons were detained under the NSA in 2004.

Human rights groups alleged that the NSA allowed authorities to order preventive detention at their own behest after only a cursory review by an advisory board, and that no court would overturn such a decision.

The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge and judicial review for up to two years. During this time, detainees do not have access to family members or legal counsel. Between March and April, the PSA was invoked against 12 persons. The government estimated that approximately 600 persons were in custody under the PSA or related charges in January. In April two Kashmiri separatist leaders, Shabir Ahmad Khan and Firdous Ahmad Shah, were released after several months' detention under the PSA.

In September the government used the PSA to arrest Sayeda Assiya Andrabi, the head of the all-female Dukhtaran-e-Millat, and eight of her associates for her campaign against adultery, prostitution, and drug addiction. At year's end, she remained in pretrial detention.

During the year the Jammu and Kashmir government released 326 persons held under PSA since 2002.

In May according to press reports, two Maoist support organizations, the All India Peoples Resistance Forum (AIPRF) and the Struggling Forum for Peoples Resistance (SFPR), claimed the West Bengal state government illegally detained Maoist activists Sushil Roy and Patit Paban Haldar. The Maoist support organizations alleged that police arrested the 2 men on May 21 but did not produce them in court until 3 days later, violating their right to a court appearance within 24 hours after arrest. According to the two groups, over 700 suspected Maoists have been detained without charge during the year.

AFSPA remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir. Under AFSPA, the government can declare any state or union territory a "disturbed area." This allows the security forces to fire on any person in order to "maintain law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA.

In February the Tis Hazari Court in New Delhi dropped a case filed under the Official Secrets Act (OSA) against 8 people booked 14 years ago for allegedly stealing classified papers from a government press in Ranchi, Bihar. The press also reported that 28 people remained in Delhi's Tihar jail under the OSA, and that some of their cases have been in the courts for 15 years.

In June a committee created by the Home Ministry to review AFSPA submitted its report, and its recommendations were under review at year's end. Press reports indicated that the review committee recommended the repeal of AFSPA and suggested the incorporation of its provisions into the UAPA.

The law provides a person in detention the right to a prompt trial; however, due to a severe backlog, this was not the case in practice.

There were no reports of political detainees during the year, although the government detained hundreds of suspected terrorists, insurgents, and separatists. In November the government released 44 of these detainees following a meeting between the prime minister and leaders of the APHC in New Delhi.

As a result of severe overloading of the courts, thousands of persons awaiting trial spent longer in prison than the maximum sentences for the crimes for which they were charged. In July 2004 the Ministry of Law and Justice reported that there were 29,622 cases pending before the Supreme Court, and 3,269,224 before the state high courts. The NHRC reported in 2004 that 75 percent of the country's inmates, some 217,659 persons, were in pretrial detention. Human rights groups claimed that because of the extensive case backlog and rampant corruption the judicial system no longer met its constitutional mandate.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, serious problems remained. In Jammu and Kashmir, members of the judiciary were subject to threats and intimidation by insurgents and terrorists.

The judicial system is headed by a Supreme Court, which has jurisdiction over constitutional issues, and includes the court of appeals and lower courts. Lower courts hear criminal and civil cases and send appeals to the court of appeals. The president appoints judges, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

*Trial Procedures.*—The criminal procedure code provides that trials be conducted publicly, except in proceedings involving official secrets, trials in which statements prejudicial to the safety of the state might be made, or under provisions of special security legislation. Sentences must be announced publicly, and defendants have the right to choose counsel independent of the government. There are effective channels for appeal at most levels of the judicial system, and the state provides free legal



counsel to indigent defendants. Defendants were allowed access to relevant government-held evidence in most civil and criminal cases; however, the government had the right to withhold information and did so in cases it considered sensitive. In 2003 the Delhi High Court issued new witness protection guidelines to reduce the number of witnesses who recanted their testimony under threat from defendants.

There was continued concern about the failure of the Gujarat government to arrest and convict those responsible for the widespread communal violence in 2002 following the burning in Godhra of the S-6 coach of the Sabarmati Express train, in which 59 men, women, and children died. In the days following the train burning, Hindu mobs killed hundreds of Muslims, displaced tens of thousands, and destroyed property.

In many cases, attempts to hold perpetrators of the Gujarat violence accountable were hampered by the allegedly defective manner in which police recorded complaints. Victims related that police refused to register their complaints, recorded the details in such a way as to lead to lesser charges, omitted the names of prominent people involved in attacks, and did not arrest suspects, particularly supporters of the Bharatiya Janata Party (BJP). According to an affidavit submitted to the Supreme Court in January 2004 by the Gujarat government, of 4,252 complaints filed, 2,032 were closed without action, even though abuses were substantiated. In August 2004 the Supreme Court instructed the Gujarat High Court to appoint a committee of high-level police officials to re-examine the 2,032 closed cases and determine whether any should be reopened. The media reported that officials attempting to conduct a serious investigation into the incidents were promptly removed from the case. At year's end, no report specifying the number of cases that should be reopened had been submitted to the Supreme Court.

The Gujarat government claimed that police had re-opened investigations against 5,384 people in the city of Ahmedabad and 24,683 people in the state as a whole. However, analysis by the Islamic Relief Committee of Gujarat revealed that only a small number of these investigations actually led to convictions. As of May there were only 2 convictions out of 217 cases concluded in the lower courts of Gujarat. The Gujarat government's legal department advised against appealing most of the acquittals in the remaining cases. As a result, only a handful of cases were appealed to higher courts. On December 14, the Godhra fast-track court sentenced 11 persons to life imprisonment for killing 11 members of a minority community in Panchmahal district of Gujarat.

At year's end, the special court in Mumbai had not ruled in the Best Bakery case.

Human Rights Watch (HRW) reported that Hindu extremists threatened and intimidated victims, witnesses, and human rights activists attempting to prosecute those who committed crimes during the 2002 Gujarat riots. It asserted that instead of pursuing the perpetrators of violence, the Gujarat government nurtured a climate of fear. The report alleged that the Gujarat government launched selective tax probes against some Islamic organizations to pressure Muslim witnesses to withdraw murder and arson charges against Hindu nationalists. The Gujarat government denied the charge.

According to the Home Ministry, as of March there were 1,700 fast track courts in the country. Fast track courts concentrated on a specific type of case, allowing judges to develop expertise in a given area of law. These courts gave preference to cases pending for extended periods and often focused on civil issues. Court fees were generally lower for these courts, since the trials were shorter.

The government does not interfere in the personal status laws of minority communities, including those laws that discriminate against women. There are separate laws for Muslims and Hindus on a number of issues. For example, Muslim personal status law governs family law, inheritance, and divorce (see section 5, Women).

Unlike in previous years, court was regularly in session and the judicial system began to normalize in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of the government's anti-insurgent actions and because of the frequent refusal by security forces to obey court orders.

Due in part to intimidation by militants and terrorists, courts in Jammu and Kashmir were often reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases. In March 2004, Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed announced that there were 533 persons of unidentified ethnicity, 361 Kashmiris, and 172 foreigners in custody. During the year, the government released 85 detainees.

*Political Prisoners.*—While the government maintained that there were no political prisoners, the APHC claimed there were approximately 500 political prisoners in Jammu and Kashmir, and human rights activists based in the state placed the number at 150, although among these were persons whom the government claimed had engaged in violent acts.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, at times the authorities infringed upon them. Police must obtain warrants to conduct searches and seizures, except in cases where such actions would cause undue delay. Police must justify such warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

The Information Technology Act grants police power under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting “lascivious” material (see section 2.a.). The act also requires Internet cafes to monitor Internet use and inform the authorities of offenses (see section 2.a.).

The Indian Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in cases of public emergency, or “in the interest of the public safety or tranquility.” The central government and every state government used these powers during the year.

Although the telegraph act gives police the power to tap phones to aid an investigation, they were not allowed to use such evidence in court. The UAPA allows such evidence to be used in terrorist cases, and some human rights activists noted that the new UAPA ordinance confers additional powers on police to use intercepted communications as evidence in terrorism cases. While there were elaborate legal safeguards to prevent police from encroaching on personal privacy, there were no such protections in terrorist cases.

Eight states (Andhra Pradesh, Rajasthan, Orissa, Haryana, Chhattisgarh, Madhya Pradesh, Himachal Pradesh, and Maharashtra) have enacted two-child laws for village council members. The laws provide government jobs and subsidies to those who have no more than two children and sanctions against those who do. For example, in 2004 village council members in Chhattisgarh who violated this prohibition reportedly were dismissed from their positions. National health officials in New Delhi noted that the central government was unable to regulate state decisions on population issues.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Security force personnel enjoyed extraordinary powers under the Jammu and Kashmir Disturbed Areas Act and the Armed Forces (Jammu and Kashmir) Special Powers Act, which includes the authority to shoot suspected lawbreakers on sight and destroy structures suspected of harboring insurgents or arms.

There were continuing reports of civilians killed in crossfires in Jammu and Kashmir during the year. In February two insurgents attacked the divisional commissioner's office in Srinagar, killing five. Both insurgents were killed after a four-hour gun battle. On November 2, militants in Srinagar killed 10 people and wounded 15 others in a car bomb attack. On November 14, also in Srinagar, insurgents killed three bystanders during an attack on a police vehicle.

In January Jammu and Kashmir Finance and Law Minister Muzaffar Hussain Beig escaped a militant attack while attending an election rally in Baramulla, north Kashmir. Also in January, militants attacked People's Democratic Party (PDP) President Mehbooba Mufti and Urban Development Minister Ghulam Hassan Mir while they were campaigning in Khalilpora. Insurgents killed six persons and injured three dozen in pre-election related violence.

Terrorists and militants operating in Rajouri, Poonch, Udhampur, and Doda areas of Jammu and Kashmir repeatedly targeted the minority Hindu community, stabbing and killing entire families at a time in numerous incidents throughout the year. For example on July 29, insurgents stabbed and killed a Hindu woman and five Hindu men in Jammu and Kashmir's Rajouri district after segregating them from Muslims in the village. On August 27, in two separate attacks, insurgents killed five members of a family in Mehrot and two Hindu priests at a temple in Dundak, Poonch district.

Civic elections were held in February in Jammu and Kashmir. Despite threats and boycott calls, polling was largely peaceful, and the army and police presence was not overbearing. After the declaration of results, terrorists killed two newly elected members and several of their relatives and friends. Several elected counselors resigned following threats from terrorists. Insurgents killed an official in Kulgam, a National Conference counselor in Ikhrajpora, and a PDP counselor in Beerwah, Budgam district.

Members of the security forces continued to abduct and kill suspected insurgents, and security forces were not held adequately accountable for their actions. Reliable data on such cases were difficult to obtain.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see section 1.d.), security forces abducted and sometimes used civilians as human shields and while clearing minefields. Such abuses occurred mostly in the Kupwara and Doda districts. On January 25, nine civilians were killed when an army team opened fire on a remote area of Assam's Kamrup district, which they believed was an insurgent hideout.

Unlike in previous years, tension along the Line of Control (LOC) in Kashmir was minimal. The Home Ministry reported no cases of artillery shelling, mortar, or small arms fire across the LOC or on the Siachen glacier during the year.

During the year insurgents and terrorists committed political killings, kidnappings, and rapes of politicians and civilians (see sections 1.a., 1.b., and 1.c.), engaged in extortion, and carried out acts of random terror that killed hundreds of Kashmiris. In May Attiqullah Shan, nephew of Jammu and Kashmir Chief Minister Mufti Mohammed Sayeed, was shot and killed in Anantnag district. No group claimed responsibility for the attack. Killings of security force members by insurgents and terrorists in Jammu and Kashmir declined to 330 for the year, according to home ministry statistics. As of August 15, the Jammu and Kashmir police claimed fighting in Kashmir had resulted in the deaths of 167 security forces, 359 civilians, and 622 insurgents.

In January in Srinagar, a 25-hour gun battle between insurgents and security forces in the passport office complex resulted in the deaths of two security officers and two insurgents and the wounding of eight security personnel.

In March in Rajouri district, insurgents kidnapped a civilian who was later killed in a crossfire between security forces and the insurgents.

In April insurgents attacked the tourist reception center complex in Srinagar. Both insurgents were killed in the subsequent gun battle, and seven government employees were injured.

In Manipur an insurgency involving up to 19 militant groups resulted in the deaths of 133 civilians, 46 security forces, and 135 insurgents, according to the South Asia Terrorism Portal. For example, on January 26, suspected United National Liberation Front members triggered two explosions in the Chandrapur village of Imphal, injuring seven persons, including two security force members. On February 17, separatists killed five Assam Rifles personnel and injured two others in an ambush at Kumbi in the Bishnupur district. In a separate attack the next day, insurgents attacked a senior police officer but wounded his escort. On July 10, People's Liberation Army members detonated a bomb, killing three Assam Rifles personnel and wounding seven persons, including two civilians in the Waithout area of Thoubal district in Assam.

According to SATP.org, separatists in Nagaland killed nine civilians during the year. Human rights groups observed that violence persisted despite ongoing talks between separatist groups and state government officials and an April 2004 government ceasefire. Factional violence between the National Socialist Council of Nagaland Isak-Muivah (NSCN-IM) and the National Socialist Council of Nagaland Khaplang (NSCN-K) continued during the year, resulting in numerous deaths. For example, NSCN-K members killed two NSCN-IM cadres in a February 25 attack at the Athibung area of Peren district. On March 12, NSCN-IM cadres attacked the Cease Fire Supervisory Board office of the NSCN-K located in Mon town, killing one NSCN-K cadre and wounding two others. On June 28, an elderly woman and two insurgents reportedly were injured in a factional clash between NSCN-IM and NSCN-K militants in the Athibung area of Peren district.

In July according to the home ministry, government representatives and NSCN-IM leaders met in Amsterdam and agreed to extend the ceasefire for six months starting in August. The government and NSCN-IM held meetings in December to negotiate another extension.

Insurgent groups in the Northeast continued to attack civilians. In April a group based in Manipur, called the People's Revolutionary Party of Kangleipak, executed the parents of two of its members who had surrendered, and seriously wounded the mother of a third. On August 7, ULFA insurgents detonated a bomb at a bus station in Boko, Assam, killing four persons and wounding three others. The insurgents also attacked oil pipelines in the districts of Sibsagar, Dibrugarh and Tinsukia. In September eight people were killed and several wounded when Kuki Revolutionary Army rebels fired on villagers in Karbi Anglong district, Assam.

The killing of civilians by Naxalites (Maoist insurgents) in Andhra Pradesh increased dramatically during the year. According to Andhra Pradesh police, Naxalites killed 123 civilians including political leaders, and 16 policemen between January and July. Police killed 84 Naxalites during the same period.

In March Maoist rebels killed eight persons in Kurnool, Andhra Pradesh. After the Naxalites shot and killed Congress legislator Chittam Narsi Reddy in

Mahbubnagar district on August 15, the state government imposed a ban on the Communist Party of India (Maoist) and seven Naxalite front organizations. After the ban, police arrested Vara Vara Rao, who had acted as the Communist Party of India (CPI) emissary in earlier peace talks. Human rights activists claimed that the escalation in violence began in January when police shot and killed three Naxalites in Prakasan district. Reports of encounter killings were highest in Nizamabad district, where police shot and killed nine Naxalites. In September Maoists guerrillas killed 10 persons in a midnight attack in the Ranchi area of Jharkhand. According to SATP, on September 12, cadres of the CPI-M killed 17 civilians at Belwadari village in the Giridih district, Jharkhand. An estimated 510 persons, including 210 policemen, have been killed in the last five years in Maoist/Naxalite violence according to the Indo-Asian News Service.

Insurgents also targeted government officials. On February 13, insurgents ambushed an advance security party of the Manipur chief minister, Okram Ibobi Singh, at Oksu, 8 miles from Imphal; however, no loss of life or injuries were reported. On February 17, insurgents injured three police officers at Naran Sena village. On May 26, ULFA insurgents killed Congress party official Amrit Dutta in Jorhat district of Assam.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice, with some limitations. Under the Official Secrets Act, the government may restrict publication of sensitive stories or suppress criticism of its policies, but no cases of government suppression were reported during the year.

Designed to be a self-regulating mechanism for the press, the Press Council is a statutory body of journalists, publishers, academics, and politicians, with a government-appointed chairman, that investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish stories that might incite caste or communal violence. The council publicly criticized newspapers or journalists it believed had broken the code of conduct, but its findings carried no legal weight.

A vigorous press reflected a wide variety of political, social, and economic beliefs. Independent newspapers and magazines regularly published and television channels regularly broadcast investigative reports including allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses. Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned. The law does not permit privately owned radio stations to broadcast news, leaving only government-controlled radio stations free to report news over the radio.

With the exception of radio, foreign media was, for the most part, allowed to operate freely, and private satellite television was distributed widely by cable or satellite dish, providing serious competition for Doordarshan, the government-owned television network. While government television frequently was accused of manipulating the news in the government's favor, some privately owned satellite channels often promoted the platforms of political parties their owners supported.

The government often held foreign satellite broadcasters, rather than domestic cable operators, liable under civil law for what it deemed objectionable content on satellite channels—notably, tobacco and alcohol advertisements and adult content.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licenses only authorized entertainment and educational content. In June the government formally cleared the domestic publication of foreign newspapers and periodicals, including the *International Herald Tribune*, although imported copies of such periodicals had been freely available for years. However, local editions of foreign press were still prohibited: country-specific editions were required to be published by a local company to comply with foreign direct investment regulations that stipulated a ceiling of 26 percent for news organizations.

The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on a range of issues, including government abuses. In October 2004 the government permitted the first delegation, in more than 50 years, of Pakistani journalists to visit Jammu and Kashmir. The correspondents, on a trip sponsored by the South Asia Free Media Association, had access to the entire spectrum of government and separatist opinion.

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the act, a district magistrate may prohibit the publication of material likely to incite murder or any act of violence; however, newspapers in Srinagar

reported in detail on alleged human rights abuses by the government and regularly published separatist Kashmiri groups' press releases.

There were no developments in the September 2004 arrest under the Official Secrets Act of a photojournalist with an Urdu newspaper in Srinagar for passing sensitive defense-related material to Pakistan.

No action was taken against the assailants who in June 2004 attacked the Mumbai office of *Aapla Mahanagar* or against those responsible for attacking newspaper editor Sajid Rashid in August 2004.

In July the Committee to Protect Journalists reported that government agents harassed and threatened *South Asia Tribune* correspondent Arun Kumar Rajnath. On July 27, the *Tribune* detailed a series of intimidating phone calls and emails Rajnath received over the previous two months. The caller, identified as an intelligence agent, allegedly offered Rajnath kickbacks in return for publishing articles unfavorable to neighboring countries.

In August Punjab police arrested *Indian Express* correspondent Gautam Dheer. The police failed to inform him of the charge, denied him access to a lawyer, and withheld information about his whereabouts. Police arrested Dheer while he was investigating alleged malfeasance by the inspector general of police, Sumedh Singh Saini. The chief minister of Punjab, Amrinder Singh, ordered Dheer's release on bail and began a probe against the special investigating team that arrested him. Lawyers for Human Rights International petitioned the NHRC, demanding a probe into the arrest, but at year's end, the NHRC had not taken up the case.

In September Reporters Without Borders claimed there was increased violence against the media, and systematic attacks on the freedom of the press during the year. The organization reported that most attacks took place in the northern part of the country. For example, on August 26, individuals attacked Shikha Das, a reporter in Chhattisgarh. Her attackers allegedly were members of a regionally prominent family, which Das had linked to trafficking in persons. The police initially refused to register her complaint and did so only after a delegation of local journalists went to the police station.

No arrests were made in the August 2004 attack against the offices of *Dinamalar* by members of the Pattali Makkal Katchi.

Violent intimidation of the press by militant and terrorist groups in Jammu and Kashmir caused significant self-censorship, according to journalists based in the state. During the year the threat of losing government revenue contributed to self-censorship by smaller media outlets that relied heavily on state government advertising for their survival.

In June the Shillong Press Corps in Meghalaya protested the harassment of journalists by police and the Meghalaya government. According to the press, on June 10, a group of plain-clothed policemen visited the office of *The Meghalaya Guardian* and interrogated senior journalists about a news item alleging that security forces had burned tribal houses. In addition, it was alleged that *The Shillong Times* editor received a midnight call from policemen attempting to interrogate him about the same news item. The issue was resolved informally after a press boycott of government programs led to a negotiated compromise.

On August 8, the Tamil Nadu government issued show cause notices against the editor and publisher of the *Kumudham Reporter*, a bi-weekly Tamil newspaper. The government charged the paper with "breach of privilege" for publishing two controversial articles.

The government maintained a list of banned books that may not be imported or sold in the country. In some cases, such as that involving Salman Rushdie's *Satanic Verses*, censors claimed the book aggravated communal tensions. In March 2004 the Maharashtra state government filed criminal charges against a foreign professor for making allegedly slanderous remarks in a book against Shivaji, a 17th century Marathi warrior, and his mother. The case remained open at year's end, and the Maharashtra state government continued to ban the book. On September 23, the Calcutta High Court removed the April 2004 West Bengal government ban on Bangladeshi author Taslima Nasreen's autobiography, *Dwikhandita*, *Amaar Meyebela*.

A government censorship board reviewed films before licensing them for distribution, censoring material it deemed offensive to public morals or communal sentiment.

The Informational Technology Act provides for censoring the Internet on public morality grounds, and defines "unauthorized access to certain types of electronic information" as a crime. According to Reporters Without Borders, this law theoretically allowed police to search the homes or offices of Internet users at any time without a warrant, but that claim has not been tested in court. The government re-

tained the right to limit access to the Internet, specifically information deemed detrimental to national security.

In 2003 the Ministry of Human Resources Development (HRD) passed strict academic guidelines requiring all central universities to obtain HRD permission before organizing “all forms of foreign collaborations and other international academic exchange activities,” including seminars, conferences, workshops, guest lectures, and research. These guidelines remained in force during the year.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected this right in practice.

*Freedom of Assembly.*—The authorities normally required permits and notification prior to holding parades or demonstrations, and local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where the local government sometimes denied permits to separatist parties for public gatherings and detained separatists engaged in peaceful protest. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

In May police killed a 9-year-old girl while attempting to disperse a clash between villagers over a graveyard in Dardpora, Srinagar. As crowds gathered over a disputed fence erected around a graveyard, police intervened and fired upon the mob. The deputy commissioner ordered a magisterial inquiry into the death, which remained open at year's end.

In June police killed a 14-year-old boy in Dholpur, Rajasthan, when they fired into an angry mob protesting the death of a person in custody. The state government paid approximately \$2,300 (Rs. 100 thousand) in compensation to the next of kin and ordered an inquiry into the incident.

In June one person was reported killed when police in Keonjhar district in Orissa fired on a crowd of approximately 500 demonstrators, led by members of the Vishwa Hindu Parishad, who stormed a police station protesting the delay in the arrest of the molester of a minor girl.

On August 16, in Maharajganj, Siwan district in Bihar, two people were killed after police opened fire on locals protesting the removal of a bus stand following the death of a child in a bus accident.

On August 19, in Churachandpur, Manipur, members of the Zomi Students' Federation clashed with police during a demonstration demanding, among other matters, compensation for civilians killed in a landmine explosion and improvement in the educational infrastructure. The clash resulted in injuries to a number of students and police and the destruction of police property and vehicles. After police arrested six demonstrators, hundreds of students stormed the police station, demanding the unconditional release of those arrested. Demonstrators then converged on the deputy commissioner's residence, setting fire to a government vehicle. Guards fired at the mob, injuring three. Police released the arrested students later in the day.

*Freedom of Association.*—The law provides for the freedom of association, and the government generally respected this right in practice.

NGOs must secure approval from the Ministry of Home Affairs before organizing international conferences. Human rights groups contended that this provided the government with substantial political control over the work of NGOs and their freedom of assembly and association. NGOs alleged that some members from abroad were denied visas arbitrarily.

*c. Freedom of Religion.*—The law provides for secular government and the protection of religious freedom, and the central government generally respected these provisions in practice; however, it sometimes did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted in part from legal constraints inherent in the country's federal structure, and in part from shortcomings in the law enforcement and judicial systems. There is no state religion, although the majority of citizens are followers of Hinduism, and this at times adversely affected the religious freedom of others. Some Hindu hardliners interpreted ineffective investigation and prosecution of their attacks on religious minorities as evidence that they could commit such violence with impunity.

During the year there were no significant changes in the status of religious freedom, and problems remained in some areas. Attacks against religious minorities persisted. No new anticonversion laws were enacted during the year. Hindutva, the politicized inculcation of Hindu religious and cultural norms to the exclusion of others, remained a subject of national debate and influenced some governmental policies and societal attitudes.

Human rights groups and others suggested that political links between the BJP and hard-line Hindu groups such as the Rashtriya Swayamsevak Sangh (RSS) influenced some state BJP governments' inadequate responses to acts of violence against religious minorities.

Legally mandated benefits were assigned to certain groups, including some groups defined by their religion. For example, educational institutions administered by minority religions were allowed to reserve seats for their co-religionists even when they received government funding. Benefits accorded dalits (formerly known as "untouchables") were revoked once they converted to Christianity or Islam, but not to Buddhism or Sikhism, ostensibly because once a dalit converted to Christianity or Islam, he would no longer technically be a dalit, although such caste distinctions informally existed in both religions.

The Religious Institutions (Prevention of Misuse) Act of 1988 criminalizes the use of any religious site for political purposes or the use of temples to harbor persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building. The act's supporters claimed that its aim was to curb the use of Muslim institutions by Islamic extremist groups, but the measure became a controversial political issue among religious Muslims.

In 2003 Gujarat passed a "Freedom of Religion" bill that provides penalties of up to three years in prison and a fine of \$1,000 (Rs. 40 thousand) for the use of allurements or force for religious conversion. Under the act, government officials must assess conversions, and the district magistrate must give prior permission. Human rights advocates believed that the law was meant to make it more difficult for poor persons, mistreated minorities, and others ostracized under the caste system to convert from Hinduism to another religion. At year's end, the rules and regulations for the Gujarat bill remain unframed, rendering the legislation inactive. Anticonversion laws have been in effect in Madhya Pradesh and Orissa since the 1960s, and laws against forcible conversions exist in Andhra Pradesh and Arunachal Pradesh. There were no reported convictions under these laws.

There is no national law barring a citizen or foreigner from professing or propagating his or her religious beliefs; however, the law prohibits visitors in the country on tourist visas from engaging in religious proselytization without first obtaining permission from the Ministry of Home Affairs. During the year, state officials continued to refuse permits to foreign missionaries to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA) of 1976, which restricts funding from abroad. The government can ban a religious organization if it violates the FCRA, provokes intercommunity friction, or has been involved in terrorism or sedition.

On June 11, residents of a slum in a Mumbai suburb assaulted four missionaries leading a vacation bible school. The four departed the country on June 12. No formal charges were filed for the assault or against the missionaries for violating the FCRA. On June 13, four other missionaries with tourist visas rather than missionary visas were deported for conducting religious activities.

The legal system accommodated minority religions' personal status laws, and there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. The personal status laws of the religious communities sometimes discriminated against women (see section 5). Some laws, such as the repealed POTA, while not specifically written to target a minority group, affected particular ethnic or religious groups. A July 2004 study carried out by the NGO People's Tribunal in 10 states found that 99.9 percent of those arrested under POTA were Muslims.

*Societal Abuses and Discrimination.*—Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities occurred in several states, which brought into question the government's ability to prevent sectarian and religious violence or prosecute those responsible for it. For example, in February two Christian pastors were killed in Orissa within a two-week period. On February 16, suspected Hindu radicals killed Gilbert Raj, a Baptist pastor, who had worked in the state for 13 years. Ten days later, unknown assailants stabbed and killed Pentecostal pastor Dilip Dalai. No charges were filed in either case. Muslims in some Hindu-dominated areas continued to experience intimidation and reported a lack of government protection, resulting in their inability to work, reside, or send their children to schools. In some areas, primarily in Gujarat, Hindutva groups displayed signs stating "Hindus only" and "Muslim-free area." There were also allegations of prohibitions on the Muslim call to prayer.

In May the Orissa High Court reduced Dara Singh's death sentence to to life imprisonment. Singh was the prime suspect in the 1999 murder of Australian missionary Graham Staines and his two minor sons. The court acquitted the other 11 accused in the crime. On August 29, the CBI appealed the high court's reduction of Singh's sentence to the Supreme Court and urged the reimposition of capital punishment. The Supreme Court has yet to hear the case.

Christian organizations also claimed that BJP officials in some localities did not restrain the illegal activities of radical Hindu groups. The All-India Catholic Union (AICU) expressed concern over growing anti-Christian violence in several states ruled by the BJP. The AICU claimed that the perpetrators were members of fundamentalist groups affiliated with the RSS. For example on April 3, a local newspaper reported that senior BJP leader Dilip Singh Judeo threatened Christian missionaries during a public address, stating that "if Christian missionaries don't stop converting people, we will take up arms." In June allegedly in order to prevent violence, the Jodhpur district administration in Rajasthan rescinded permission for the Pentecostal Church of God to hold a gathering in the city after members of the Vishwa Hindu Parishad and Bajrang Dal protested, claiming that the church was converting Hindu children.

Hindu organizations frequently alleged that Christian missionaries forced or lured Hindus, particularly those of lower castes, to convert to Christianity. In Christian majority areas, there were occasional reports that Christians persecuted members of regional minorities.

Press reports indicate that following the December 2004 tsunami, a group of Christian missionaries allegedly refused to provide aid to Hindus in a southern Tamil Nadu village because they would not convert.

The Gujarat government took no action to arrest and convict those responsible for the widespread communal violence that occurred in 2002 following the burning of the Sabarmati Express train in Godhra (see section 1.e.).

There were no reports of anti-Semitic acts during the year against the country's small Jewish community.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement, and the government generally respected this in practice; however, in certain border areas the government required special permits.

Security forces often searched and questioned occupants at vehicle checkpoints, mostly in troubled areas in the Kashmir Valley or after major terrorist attacks. The government also expanded construction of a 330-mile security fence along the LOC in Jammu and Kashmir, causing occasional difficulties for local residents, as it cut through some villages and agricultural lands. By the end of the year, fence construction was nearing completion. The government's purpose for the security fence was to stop arms smuggling and infiltration by Pakistani-based terrorists or insurgents. The government attributed a decline in successful insurgent crossings during the year in part to the fence.

Under the Passports Act of 1967, the government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The government used this provision to prohibit foreign travel by some government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir. Citizens from Jammu and Kashmir faced extended delays, often up to two years, before the Ministry of External Affairs would issue or renew their passports. Government officials regularly demanded bribes before issuing passports, especially for those from Jammu and Kashmir that required special clearances. Applicants born in Jammu and Kashmir—even the children of serving military officers born during their parents' deployment in the state—were subjected to additional scrutiny and police clearances prior to passport issuance.

Unlike in previous years, there were no reports of the government using the issuance of passports or travel documents to restrict travel of separatist leaders in Jammu and Kashmir.

There was no law banning forced exile; however, there were no reports of forced exile during the year.

*Internally Displaced Persons (IDPs).*—According to the Norwegian Refugee Council, at least 650 thousand persons were displaced due to conflicts in Jammu and Kashmir, Gujarat, and the northeast (see sections 1.a., 1.c., and 1.g.). There was no progress on the plight of approximately 300 thousand Kashmiri Pandits (Hindu Brahmins) forced to flee the Kashmir Valley in the early 1990s after the outbreak



of separatist violence. The Pandits remained in refugee camps in Jammu and New Delhi, some 15 years after the start of the insurgency, and were unable to return to their homes in Jammu and Kashmir because of safety concerns, including the ongoing killings of Hindus in the state.

According to home ministry statistics, there were 55,476 registered Kashmiri Pandit families living in Jammu, 34,088 in Delhi, and 19,338 in other states receiving government support. Government-managed camps housed 5,778 families in Delhi and Jammu. The government provided monthly cash relief of \$70 (Rs. three thousand) and basic dry rations to the 14,869 families in Jammu. In Delhi, authorities provided \$75 (Rs. 3,200) to 4,100 families.

The Indo-American Kashmir Forum claimed there were 350 thousand internally displaced Pandits living outside the valley. In August 2004 the Jammu and Kashmir government announced plans to help displaced Kashmiri Pandits return to the valley, but at year's end, no Kashmiri had done so.

More than 87 thousand persons lived under poor conditions in relief camps in Assam as a result of ongoing violence in the northeast. According to press reports, nearly two thousand families who were riot victims from the Kokrajhar, Bongaigaon, and Dhubri districts in Assam awaited rehabilitation grants sanctioned by the state government following the 1993–99 riots in these areas. An NGO reported that the state government released part of the grant during the year. The government also provided assistance to IDPs and allowed them access to NGO and human rights organizations during the year. There were no reports that the government attacked or forcibly resettled IDPs. There were no reports of government programs specifically designed to facilitate resettlement.

*Protection of Refugees.*—The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees or asylum seekers. The government provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. According to the office of the UN High Commissioner for Refugees (UNHCR), at the end of May, there were 11,124 registered refugees in the country. UNHCR reported during the year that the government hosted over 250 thousand unregistered refugees from Sri Lanka, Burma, and Tibet.

Since 1960, the government hosted approximately 110 thousand de facto refugees from Tibet.

At year's end, Nepal Communist Party leader C.P. Gajurel remained in jail in Chennai.

The government generally denied NGOs and the office of the UNHCR direct access to refugee camps, particularly in Mizoram, but in Tamil Nadu, UNHCR was given access and maintained a local office. The UNHCR had no formal status, but the government permitted its staff access to refugees living in urban centers. The government did not formally recognize UNHCR grants of refugee status, although it provided "residential permits" to many Afghans and Burmese. The government considered Tibetans and Sri Lankans in refugee camps to be refugees, and provided assistance to them, but since it regarded most other groups, especially Bangladeshi refugees, as economic migrants, it did not provide them with aid. However, in recent years, a number of court rulings extended protection to refugees whom the government had formerly considered economic migrants. During the year, the UN high commissioner for refugees was not invited and did not visit the country.

The government permitted recognized refugees to work, and the state and central governments paid for the education of refugee children and provided limited welfare benefits.

Conditions in the Tamil refugee camps were generally acceptable, although much of the housing was badly deteriorated. The UNHCR continued to meet outside the camps with Tamil refugees considering voluntary repatriation. The NGO Organization for Eelam Refugee Rehabilitation had regular access to the camps during the year. The number of "special camps" which house suspected members of the Liberation Tigers of Tamil Eelam) was reduced to one camp. As of November 1, only 11 refugees remained in the single camp.

Those living in the country not formally recognized as refugees included some 80 thousand Chakmas and approximately 200 thousand Santhals, both from Bangladesh, who remained in Arunachal Pradesh, Mizoram, and Assam, respectively, as well as Afghans, Iraqis, and Iranians without valid national passports. The government either chose not to deport them, issue them renewable residence permits, or ignored their status. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and were unable to regularize their status.

In 2004 the UNHCR assisted in the return of three thousand refugees from Tamil Nadu to Sri Lanka.

Ethnic Chins from Burma were among the non-recognized refugees in the north-eastern states. An estimated 40 thousand to 50 thousand Chins lived and worked illegally in Mizoram. NGOs estimated that during the year 10 thousand Chins with alleged ties to Burmese insurgent groups were expelled to Burma, where the military government reportedly jailed them. Mizoram human rights groups estimated that some 31 thousand Reangs, a tribal group from Mizoram displaced by sectarian conflict, remained in six camps in North Tripura. Conditions in these camps were poor, and the Tripura government asked the central government to allot funds for their care. In 2004 Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package. The Mizoram government rejected the demands, maintaining that only 16 thousand of the refugees had a valid claim to residence. After several rounds of negotiations, the Mizoram government and Reang-dominated Bru National Liberation Front insurgents signed a peace accord in June. Mizoram also agreed to take back Reangs who had fled to Tripura to escape the conflict.

In January the Supreme Court ordered the Ministry of Home Affairs, the election commission, and the governments of Mizoram and Tripura to resettle approximately 40 thousand displaced Reangs and add them to the electoral rolls.

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

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

*Elections and Political Participation.*—The government changed hands following free and fair national parliamentary elections in April and May 2004 in which approximately 675 million citizens participated. The country has a democratic, parliamentary system of government, with representatives elected in multiparty elections. Parliament sits for five years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. Citizens elected state governments at regular intervals except in states under president's rule.

Election-related violence occurred during the year. In February Naxalite insurgents killed seven policemen and polling officials in Palamu, Jharkhand, on the eve of the first state assembly elections.

Also in February Maoist rebels killed 11 persons in the first phase and 10 persons in the final phase of state assembly elections on Bihar and Jharkhand. Maoists beheaded one person in Giridih in Jharkhand for defying the Maoist call for a boycott.

According to the Jammu and Kashmir chief secretary, there were 109 incidents of violence in the state during the campaigning and voting for the 2004 parliamentary elections in April and May in which 31 civilians and six members of the security forces were killed, and 261 persons injured. In April 2004 the terrorist group Jaish-e-Mohammed (JeM) distributed hand-written notes ordering residents in parts of the Kashmir valley not to participate in elections. JeM also demanded that Kashmiris not work on public works projects and support locally organized strikes. In April 2004 terrorists cut off the ears of a man in Udhampur for voting in the polls. In a similar incident in Pulwama, members of the terrorist group Lashkar-e-Tayyiba cut off the finger of a villager because he had voted (voters' fingers were stained with ink after they cast their ballots).

There were numerous instances of police or security force interference with election-related activity in 2004. In Srinagar the chairman of the JKLF, Mohammad Yasin Malik, and the president of the Jammu and Kashmir Democratic Freedom Party, Shabir Ahmad Shah, were among six separatist leaders detained by police for peacefully campaigning against the 2004 parliamentary elections in Baramulla district in northern Kashmir. Police detained these persons and activists from other groups on a regular basis prior to elections prevent them from campaigning against voting on the grounds that their activities would disturb the peace. As a rule, the periods of detention were short, and detainees were quickly released.

There were 69 women in the 783-seat national legislature, and 7 women in the cabinet of ministers. Numerous women were represented in all major parties in the national and state legislatures. Constitutional amendments passed in 1992 reserved 33 percent of seats for women in elected village councils (Panchayats).

The constitution reserved seats in parliament and state legislatures for scheduled tribes and scheduled castes in proportion to their population (see section 5). Indigenous persons actively participated in national and local politics.

*Government Corruption and Transparency.*—Corruption was endemic in the executive and legislative branches of government. Transparency International deter-

mined that corruption was “all-pervasive” in the country. Election campaigns for parliament and state legislature seats were often funded with unreported money, and the government failed to combat the problem. In December the media highlighted one instance in which 11 members of parliament were videotaped accepting bribes.

On June 15, the government passed the Right to Information Act, mandating stringent penalties for failure to provide information or affecting its flow, and requiring agencies to self-reveal sensitive information. The government took extended periods of time to reply to information requests and often did not provide a response.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in a few circumstances, groups faced restrictions. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities. The government banned 355 NGOs during the year for misuse of funds. In April 2004 ACHR alleged harassment by local authorities, including denial of government services and numerous intimidating visits from the security forces. Other human rights activists and NGOs also complained of surprise visits and other harassment by police and government officials.

Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, were attacked in past years, and in some cases, killed. No such cases were reported during the year, although one monitor was killed during the 2004 polls by an improvised explosive device (see sections 1.a. and 1.g.).

International human rights organizations were restricted, and foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigation purposes. For example, in 2004 the government did not respond when AI's secretary general, Irene Khan Zubeida, applied for a visa. This was her third attempt, following unsuccessful visa applications in 2002 and 2003. AI claimed that the repeated visa denials may be linked to its demand for a retrial of the Best Bakery case and its report critical of state actions during the 2002 Gujarat riots.

The main domestic human rights organization was the government-appointed NHRC. The NHRC acted independently of the government, often voicing strong criticism of government institutions and actions. However, some human rights groups claimed the NHRC was hampered by numerous institutional and legal weaknesses, including statutory regulations and operational inefficiencies. The NHRC did not have the statutory power to investigate allegations and could only request that a state government submit a report. State governments often ignored these requests and, if a report was submitted, state governments rarely carried out its recommendations. Human rights groups such as ACHR claimed that the NHRC did not register all complaints, dismissed cases on frivolous grounds, did not adequately protect complainants, and did not investigate cases thoroughly.

The NHRC was able to investigate cases against the military; however, it could only recommend compensation for victims of abuse, and NHRC recommendations were not binding. Many states had their own human rights commissions, and the NHRC only has jurisdiction if a state commission fails to investigate. Human rights groups alleged that state human rights commissions were more likely than the NHRC to be influenced by local politics and less likely to offer fair judgments.

According to Home Ministry statistics, the NHRC received 241,368 complaints and closed 186,433 cases. During the year, the Supreme Court at NHRC request ordered the retrial of 10 riot cases from Gujarat, in which the high court acquitted the accused (see section 1.e.).

The Home Ministry examined several amendments to the 1993 Protection of Human Rights Act proposed by the NHRC seeking to increase its powers to investigate allegations of human rights violations by the armed forces. In the last 3 years, the NHRC investigated 289 such cases, resulting in action against 59 officials and the punishment of 19 offenders.

The 1993 Protection of Human Rights Act recommended that each state establish a human rights commission. As of October commissions existed in Assam, Chhattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal. The Jammu and Kashmir state legislature established a state human

rights commission, but it had no authority to investigate alleged human rights violations committed by members of the security forces.

In April the Jammu and Kashmir human rights commission charged the state government, particularly the deputy commissioners, of diluting its authority and brushing aside its recommendations. The Jammu and Kashmir human rights commission received 305 complaints since its inception, regarding prisoner release, custodial deaths, and alleged security force harassment.

Tamil Nadu and Andhra Pradesh have special courts to hear human rights cases. The Uttar Pradesh government continued to defy a court order to reactivate its special human rights court.

The NHRC was active duringear, highlighting human rights abuses throughout the country, and recommending compensation for victims of human rights abuses. For example, in July the NHRC recommended that the Haryana government conduct an independent investigation into police assaults on agitating workers at the Honda Motorcycle and Scooters India factory in Gurgaon. No action has been taken by year's end.

In June the NHRC represented five persons who had been jailed for more than 3 decades in Assam without trial (see section 1.c.).

In recent years the NHRC proposed and lobbied for schools to include a human rights course in their standard curricula, but at year's end no schools had implemented this suggestion. Several universities, however, introduced human rights courses into their curricula at the behest of the NHRC.

At year's end, the CCDP, a Punjab-based human rights organization, had not received an NHRC response to its report documenting 672 disappearance cases (see section 1.b.).

The Nanavati commission, tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, released its report in August. It cited several prominent Congress party leaders for complicity in the violence. The report highlighted law enforcement culpability in the deaths due to a deliberate lack of action and noted that only one policeman was convicted for committing atrocities during the riots, in which three thousand Sikhs were killed. Union minister Jagdish Tytler and Member of Parliament Sajjan Kumar were indicted in the report. Tytler resigned from parliament and Kumar resigned from the Delhi Rural Development Board after the report's release, but at year's end no formal punishment resulted from the report. The government set up two committees to provide compensation, promised by Prime Minister Singh to the victims' families.

At year's end, the two-member judicial commission created to investigate riot-related violence in Gujarat received an extension to complete its report.

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

The law prohibits discrimination on the basis of race, sex, religion, place of birth, or social status, and government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous persons, homosexuals, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as ethnic, religious, and language differences, deeply divided the society. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, Tamil Nadu and Karnataka.

*Women.*—Domestic violence was common and a serious problem. According to a 2004 National Commission for Women survey, 60 to 80 percent of women were abused in some way by their spouses, 42 percent were beaten physically, and 22 percent were expelled from their homes for at least a day. According to the women's group Majlis, many women were forced to remain in abusive relationships because of social and parental pressure and to protect their children. According to a survey conducted during the year by the International Institute for Population studies, 56 percent of women believed wife beating was justified in certain circumstances.

Rape and other violent attacks against women continued to be a serious problem. According to the National Crime Records Bureau (NCRB), in 2004 authorities arrested 133,865 persons for violent attacks against women and there were 12,558 convictions. The NCRB reported 1,157 cases of rape against dalit women in 2004 and 523 cases of rape against the scheduled castes in the first six months of the year. Human rights groups claimed that these numbers were much lower than the actual totals.

Ineffective prosecution and societal attitudes made progress against domestic violence difficult. The NCRB confirmed that the number of rapes reported had declined from 16,373 in 2003 to 14,809 in 2004, while reported molestations had decreased

from 33,943 to 31,716. However, the NCRB pointed out that the number of rapes increased sharply at the end of 2004 to 17,633 cases. According to the NCRB, 2 rapes take place every hour, 1 in 5 victims was a child, and 19 out of 20 of those arrested for rape went unpunished.

The Home Ministry reported that in New Delhi during 2004, there were 130 reported dowry deaths, 490 rapes, 489 sexual molestations of women, 1,211 instances of cruelty by the husband or in-laws, and 1,599 reports of sexual harassment.

In June a father-in-law raped Imrana, a Muslim woman, in Muzzafarnagar, Uttar Pradesh. After the incident, local community and religious leaders ruled that she must separate from her husband and move in with the father-in law who had raped her. They also determined that she should consider her former husband as her son, because she was now married to his father. The All India Muslim Personal Law Board, responsible for overseeing Muslim family law issues, refused to overturn this decision. Numerous women's organizations protested, but Uttar Pradesh chief minister Mulayam Singh Yadav supported the edict, claiming that the Muslim religious leaders ruling must have been deeply considered. In July police arrested the father-in-law and charged him with rape. He remained in judicial custody at year's end.

The press reported that violence against women was increasing, although some local women's organizations attributed the apparent increase to greater reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, fostering a climate of impunity. Upper caste gangs often used mass rape to intimidate lower castes, and often gang raped as punishment for alleged adultery, or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state.

In Lucknow in February 2004, six tribal women were raped while working in a brick kiln. The police initially refused to lodge a complaint and alleged that three of the six victims had not actually been raped. After higher authorities intervened, police filed charges and arrested two suspects.

In March a 21-year-old woman was tortured, stripped, made to sit on a donkey and paraded through Chandupur village, Uttar Pradesh, after a local mystic accused her of killing a small child. Police intervened, but no arrest was made.

On August 20, according to the AHRC, a rape victim and her child were auctioned off for 13 cents (Rs. 6) in Jharkhand. After four men raped Piary, a tribal woman, she became pregnant and demanded that her rapists take responsibility for her child. The village elders first decided that the perpetrators should pay Piary, but when she rejected this, they auctioned Piary and her child. Newspaper reports stated that a young man present during the auction empathized with Piary's plight, agreed to marry her and take responsibility for her child. The village heads approved and announced that the approximately \$280 (Rs. 12 thousand) collected from the four perpetrators would be given to Piary for the marriage. Human rights groups demanded the arrest of the perpetrators and the village heads, but at year's end, the police had made no arrests.

On September 13, a woman was allegedly gang raped on the Toofan Express train by seven people, three of whom were Railway Protection Force personnel. According to press reports, the Railway Ministry ordered an inquiry into the alleged gangrape and compensated the victim. Railway officials on duty at the time were suspended and a ticket examiner and vendor were arrested.

Women often bore the brunt of caste-based violence. For example on March 31, the NFO People's Watch-Tamil Nadu reported that in Vengamedu village, an upper caste man assaulted and sexually harassed a dalit woman for using a pathway forbidden to dalits. He tore off the woman's clothes, hit her 20 to 30 times, and verbally abused her. The victim attempted to lodge a complaint with the police, but Sub-Inspector Sidhuraj of the Chennimalai police refused to register her complaint. No action was taken and the man remained free at year's end.

The government prosecuted some rape cases during the year, but was not able to enforce rape laws effectively. In May three youths abducted and sexually assaulted a female student from Venkateswara College in South Delhi. Although police arrested one man, who was in judicial custody at year's end, the two other alleged rapists remained at large. In January two years after the gang rape of a student from the Maulana Azad Medical College in Delhi, an additional sessions court gave life sentences to the two accused.

Providing or taking a dowry is illegal under the Dowry Prohibition Act of 1961; however, dowries continued to be offered and accepted, and dowry disputes remained a serious problem. In a typical dowry dispute, the groom's family harassed a new wife for not providing a sufficient dowry. This harassment sometimes ended in the woman's death, which the family often tried to portray as a suicide or accident. In 2004 the government registered 6,250 dowry death cases under the Dowry

Prohibition Act, in which husbands or in-laws murdered women for not providing sufficient dowry.

In September the Delhi Commission for Women reported 677 cases of abuse against women from January to July, of which 92 percent were dowry related and 22 percent a result of harassment by in-laws. In 2004 Delhi police's crime against women cell recorded 7,987 dowry-related cases. Of these, police counseled 1,853 families to a compromise, filed criminal charges in another 1,200 cases, and in five thousand cases the victim did not pursue the matter. In 2004 there were 122 dowry-related deaths in Delhi. In March the West Tripura sessions court sentenced three persons to five years' rigorous imprisonment for abetting the suicide of a woman by torturing her for dowry in 2003.

The Tamil Nadu government reported an increase in cases filed under the Dowry Prohibition Act from 175 in 2003 to 294 cases in 2004. In 2004 the government won convictions in 32 cases of dowry harassment, including 8 involving murder. Lawyers confirmed that wife-battering cut across all religions, caste, and educational levels. Convictions potentially took several years. For example, during the year the Chennai high court convicted two accused persons of a dowry death case initially filed in 1995.

Usually at a disadvantage in dowry disputes, women have begun to speak out against dowry demands. In February a woman from Bhiwani, Haryana, refused to join her husband after her marriage ceremony because of a dowry demand by her in-laws. The local panchayat stood by the woman's decision.

The media often reported cases of dowry murder. On August 19, 19-year-old Charanpreet Kaur was set on fire and killed by her father-in-law because her parents could not meet her in-laws' ever-increasing demands for dowry. Kaur made a statement to police before she died, and her husband and in-laws were arrested. At year's end, all accused were in New Delhi's central jail awaiting formal murder charges.

Under the law, courts must presume that the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first seven years of marriage—provided that harassment was proven. In such cases, police procedures required that an officer of the rank of deputy superintendent or above investigate and that a team of two or more doctors perform the postmortem procedures; however, in practice police did not follow these procedures consistently.

Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer (CDPO), although it was unclear how effective they were. Madhya Pradesh also required that all government servants seeking to marry produce a sworn affidavit by the bride, the groom, and his father that no dowry exchanged hands.

In May the Supreme Court ordered the creation of a commission to end dowry. In August parliament passed the Domestic Violence Bill to deal with dowry-related harassment and murder. The bill provides sweeping powers to magistrates to issue protection orders.

In May parliament amended the Code of Criminal Procedure to stipulate that mandatory DNA tests in all rape cases. In an effort to protect women from sexual assault by police officers, the bill also prohibits the arrest of women after sunset and before sunrise except in "exceptional circumstances."

The government banned *sati*, the practice of burning a widow on the funeral pyre of her husband, in the 1800s, and there were no instances of *sati* in recent years. However, in January according to press reports, the Rajasthan High Court dropped charges against 18 persons in a 1987 case in which 18-year-old Roop Kanwar was killed through *sati* after witnesses recanted their testimony. Women's groups demanded an appeal, but there was no action at year's end.

During the year, honor killings continued to be a problem, especially in the northern states of Punjab and Haryana. Human rights organizations estimated that up to 10 percent of all killings in those two states were honor killings; however, the true number may be much higher. In August Delhi police arrested Jai Singh and four others for the alleged honor killing of his daughter, Sunita. Singh was accused of hiring the four to kill his daughter for living separately from her husband. At year's end, the five were in jail awaiting trial.

Dalit women were often singled out for harassment. For example, they were occasionally stripped naked by mobs and paraded in public for offending persons belonging to higher castes. Police failed to arrest a man in Haryana who in February 2004 cut off a 50-year-old dalit woman's nose. In December in Keraragard, Orissa, upper-caste Hindus and a priest beat four dalit women for entering a temple forbidden to them. The village council then fined the women approximately \$22 (Rs. 1,000). The district collector ordered a probe into the incident.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act of 1976, the Prevention of Immoral Traffic Act of 1956, the sati Prevention Act of 1987, and the Dowry Prohibition Act of 1961. However, the government often was unable to enforce these laws, especially in rural areas where traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, they took an average of six to seven years to conclude.

In August parliament amended the Hindu Succession Act, which removed discriminatory clauses from the Hindu Succession Act by giving equal inheritance rights to Hindu, Buddhist, Jain, and Sikh women, including giving married daughters the same inheritance rights as male heirs.

The government took a number of steps to assist female crime victims. These included establishing telephone help lines, creating short-stay homes, providing counseling, occupational training, medical aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue.

While the act of prostitution is legal, most aspects surrounding prostitution are illegal. The Immoral Trafficking Prevention Act (ITPA) criminalizes the offenses of selling, procuring, and exploiting any person for commercial sex as well as profiting from the prostitution of another individual. Prostitution is only legal when no third party is involved, it is not done in or near a public place, it is not forced, there is no solicitation, or when the prostitute resides alone. Section 8 of the ITPA criminalizes the act of solicitation for prostitution, which has been used in the past to arrest and punish women and girls who were victims of trafficking. According to UNICEF, in 2004 the country contained half of the one million children worldwide who entered the sex trade. Many tribal women, who are particularly vulnerable, were forced into sexual exploitation (see section 6.c.).

In recent years sex workers began to demand legal rights, licenses, and reemployment training. For example, in June 2004 numerous sex workers in Goa were displaced after authorities demolished their homes. According to the chairperson of the NCW, some of the displaced sex workers refused a government compensation offer, claiming that it had not been accurately described to them.

The country is a significant source, transit point, and destination for many thousands of trafficked women (see section 5, Trafficking).

Sexual harassment was common, with a vast majority of cases unreported to authorities. A 2003 study by a senior professor at the Madras Institute of Development Studies chronicled the hazards faced by some women in the workforce. Among these were physical and verbal abuse from male supervisors, restricted use of toilets, and the denial of lunch breaks. In June 2004 a joint report released by the NCW and the national press institute found that most women experienced gender discrimination at their workplaces.

Attempts by women to report harassment often resulted in further problems or dismissal. In January 2004 a female general manager of Dena Bank in Mumbai was suspended after filing sexual harassment charges against senior bank officials; there were no developments in the case at year's end. In April 2004 a Sahara airlines executive employee in Mumbai was fired after filing a sexual harassment complaint. At year's end, the case was ongoing.

In April 2004 the Supreme Court determined that a victim of sexual harassment had a right to compensation based on the findings of an internal departmental report or investigation of the case.

The law prohibits discrimination in the workplace; however, enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to their owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State government-supported microcredit programs for women began to have an impact in many rural districts. In March the government amended the law to provide flexibility for women to work in factories on the night shift. Women's organizations welcomed the move but stressed the need to improve security for such women.

In February 2004 the government amended the divorce laws to expand the venues where a woman could file and obtain a divorce. Earlier provisions in the Hindu and Special Marriage Acts forced women to file cases in cities or towns where they had resided during the marriage or where the marriage took place; however, the amendment permits women to file where they currently reside. At year's end, there were no changes to the triple *talaq* provisions, which allowed Muslim men to divorce their wives simply by saying "talaq" three times.

In September 2004 after a request by the All-India Democratic Women's Association, the army allowed female military recruits to be examined by female doctors at their request.

Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women traditionally controlled family property and enjoyed full inheritance rights.

*Children.*—The government has not demonstrated a commitment to children's rights and welfare and does not provide compulsory, free, and universal primary education. According to government statistics from 2003, 165 million of the 203 million children between the ages 6–14 attended school. The upper house of parliament failed to take action on the constitutional amendment passed by the lower house of parliament in 2002 that provided free and compulsory education to all children aged 6 to 14.

In contrast to the government's figures, UNICEF reported that approximately 120 million of the country's 203 million school-aged children attended primary school, a net primary school enrollment/attendance rate of 77 percent. A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001. The government initiated a plan to provide free schooling for girls from single-child families. The program would also provide a \$45 (Rs. 2,005) per month stipend for university studies. Under the scheme, families with only two girls will get a 50 percent reduction in primary education fees.

Government schools were underfunded and understaffed. For example, in August, it was reported that a government school in Sara Village, Bihar, had only 2 teachers for 180 students. Human rights groups asserted that teachers in government schools often did not show up for work or left their jobs early in the day. Government teachers often were not paid on time or in full, were not given adequate training, and worked under very poor conditions. Corruption and misappropriation of educational funds was commonplace.

The law provides for free medical care to all citizens; however, availability and quality of that care remained problems, particularly in rural areas.

The law prohibits child abuse; however, there were societal patterns of abuse of children, and the government did not release comprehensive statistics.

Abuse of children in both public and private educational institutions was a problem. Schoolteachers often used corporal punishment on their students. In January a teacher forced 12 students of the Nalpawand primary school in Bastar to eat human excreta as punishment for allegedly chewing tobacco. The teacher was suspended. In February police arrested the principal of a government school in northwest Delhi and three others for raping a 16-year-old student. The Delhi government suspended two of the accused from their posts, but no criminal charges were filed at year's end.

In August in Delhi, a 6-year-old child suffered multiple fractures when a teacher beat him for not completing his assignment. The teacher was suspended, and the school's principal was transferred after the police were notified.

Buying and selling female children was a common practice in rural Tamil Nadu. For instance, police arrested a 55-year-old man for selling an 18-month-old child to a woman in Kancheepuram district in September. The seller informed the police that he had purchased the child for \$23 (Rs. 1,000).

The government was responsive to some incidents of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months. In February the Supreme Court sentenced a man to death for the 2001 rape and murder of a 6-year-old girl in Uttar Pradesh. Earlier the Allahabad High Court had acquitted the man.

Children were subjected to abuse during certain religious ceremonies. In April in the Virudhnagar district of Tamil Nadu, police arrested 80 persons for participating in a ritual of burying infants alive as a means of appeasing a goddess. Tamil Nadu enacted a law in 2002 to stop this offense, but the practice continued in the state during the year.

Unlike in previous years, there were no reports of child ordination. In March 2004 child rights activists challenged in the Mumbai high court the ordination of 9-year-old Priyal Bagericha as a Jain nun. Child rights activists alleged that various religious sects ordained children as young as eight years old and that children were not competent to make such decisions on their own. According to media reports, 600 such child monks existed in various Jain sects. The high court ruled that it was ac-



ceptable for small children to become monks, as the children had the option to return to their families at any time.

The law prohibits child marriage, a traditional practice that occurred throughout the country, and sets the legal marriage age for girls at 18; however, according to the Health Ministry's Country Report on Population and Development, published during the year, half of all women were married by the age of 15. Each year in April and May during the Hindu festival of Askhay Tiritiya, thousands of child marriages were performed in Madhya Pradesh, Chhattisgarh, and Rajasthan. Although state governments conducted awareness campaigns during the year, enforcement was weak, and the practice was accepted in certain communities. In April the NCW launched the Bal Vivah Virodh Abhiyan (Child Marriage Protest Program), a nationwide awareness program against child marriages with particular focus on the states of Bihar, Rajasthan, Chattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh.

In April the government reported that it prevented 200 child marriages in the Rajnandgaon district of Chhattisgarh, a district known for mass child marriages in April and May each year. In 2004, 135 child marriages were prevented in the district, and a priest was sent to jail for presiding over these ceremonies.

In May a villager attacked Shakuntala Verma, a district supervisor in Dhar district of Madhya Pradesh, when she tried to convince the man not to marry his minor daughters on "Akshaya Tiritiya," one of the most auspicious days of the Vedic calendar. Police registered the case, but no further action was taken.

Child marriage was the norm among certain scheduled castes and tribal communities in the Krishnagiri district of Tamil Nadu. Brides were typically between the ages of 8 and 12 years of age, while the groom was generally much older.

According to the 1999 National Family Health Survey, 64.3 percent of women in Andhra Pradesh, 46.3 percent in Karnataka 24.9 percent in Tamil Nadu, and 17 percent in Kerala were married before the age of 18.

Trafficking and commercial sexual exploitation of children was a problem (see section 5, Trafficking).

Although the law prohibits and the government conducted programs to limit the use of amniocentesis and sonogram tests for sex determination, NGOs in the area reported that some family planning centers revealed the sex of fetuses. Both female infanticide and selective feticide targeting female babies occurred during the year as the traditional preference for male children continued. The government did not enforce effectively the law prohibiting termination of a pregnancy for sexual preference. In May the health minister stated to parliament that there were no feticide-related convictions in the past eight years.

Parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported particularly low female/male ratios, with Punjab reporting the lowest ratio in the country: 793 females to 1,000 males.

*Trafficking in Persons.*—The Immoral Traffic (Prevention) Act (ITPA) prohibits trafficking in human beings; however, trafficking in persons remained a significant problem. Some law enforcement officials participated in and facilitated trafficking in persons.

The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage victims. Conviction for an offense committed against a child (under age 16) was punishable by imprisonment for 7 years to life. In the case of minors (16 to 18 years), the punishment is from 7 to 14 years imprisonment. Other penalties under the act range from minimum terms of imprisonment of one year for brothel keeping, to minimum terms of 7 years to life imprisonment for detaining a person, with or without consent, for prostitution. During the year there were more than 195 prosecutions against traffickers. The police were charged with enforcing the country's laws on prostitution and trafficking in women and children, NGOs, observers, and women in prostitution said that police actions were often part of the problem. NGOs alleged that corruption at the enforcement level helped perpetuate trafficking. The government cooperated with groups in Nepal and Bangladesh to deal with the problem and began to negotiate bilateral antitrafficking agreements, particularly through the South Asian Association for Regional Cooperation. Numerous NGOs, including the Action Against Trafficking and Sexual Exploitation of Children, provided training and conducted informational meetings.

The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor. There were an estimated 500 thousand child prostitutes nationwide. More than 2.3 million

girls and women were believed to be working in the sex industry, and experts believed that more than 200 thousand persons were trafficked into, within, or through the country annually. There were approximately three million trafficking victims in the country, and two thousand rescues a year. Women's rights organizations and NGOs estimated that more than 12 thousand and perhaps as many as 50 thousand women and children were trafficked into the country annually from neighboring states for commercial sexual exploitation. According to an International Labor Organization (ILO) estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the UN reported that an estimated 40 percent of prostitutes were below 18 years of age. Tribal persons made up a large proportion of the women forced into sexual exploitation.

The country was a destination for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. To a lesser extent, the country was a point of origin for women and children trafficked to other countries in Asia, the Middle East, and the West. The country also served as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan and for boys trafficked to the Gulf states to work as camel jockeys. The country was also a growing destination for sex tourists from Europe, the United States, and other Western countries, and NGOs reported that sexual exploitation of children for sex tourism remained a significant problem in the states of Goa and Kerala (see section 5, Women; Children).

The Ministry of Labor and Employment reported in December that it rescued 916 child laborers from Maharashtra and 648 from Delhi.

An estimated 6 to 10 thousand children from Nepal and Bangladesh were trafficked into the country annually for commercial sexual exploitation. Girls as young as seven years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas of the country to the major prostitution centers of Mumbai, Calcutta, and New Delhi. NGOs estimated that there were approximately 100 to 200 thousand women and girls working in brothels in Mumbai, and 40 to 100 thousand in Calcutta. In West Bengal, the organized traffic in illegal Bangladeshi immigrants was a principal source of bonded labor. Calcutta was a transit point for traffickers sending Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and the Middle East.

Within the country, women from economically depressed areas often moved to cities seeking greater economic opportunities, and once there they were often forced by traffickers into prostitution. In many cases, family members sold young girls into prostitution. Extreme poverty, combined with the low social status of women, often resulted in parents handing over their children to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages back home.

According to the Indian Center for Indigenous and Tribal Peoples, more than 40 thousand tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many came from tribes driven off their land by national park plans. A Haryana-based NGO revealed widespread trafficking of teenaged girls and young boys from poverty-stricken Assam to wealthier Haryana and Punjab for sexual slavery under the pretext of entering into arranged marriages or for forced labor. There was also significant trafficking for real marriages due to decades of large-scale and increasing female feticide.

Boys, often as young as age four were trafficked to the Middle East or the Persian Gulf as jockeys in camel races, and many boys ended up as beggars in Saudi Arabia during Hajj (pilgrimage). The majority of such children worked with the knowledge of their parents, who received \$200 (Rs. 9,300) for their child's labor. Many children were kidnapped for forced labor, with kidnappers earning approximately \$150 (Rs. seven thousand) per month from the labor of each child. The child's names were usually added to the passport of a Bangladeshi or female citizen who already had a visa for the Gulf. Girls and women were trafficked to the Persian Gulf states to work as domestic workers or for commercial sexual exploitation.

The NCW reported that organized crime played a significant role in the country's sex trafficking trade and that trafficked women and children were frequently subjected to extortion, beatings, and rape. Although a few women were abducted forcibly or drugged, most were trafficked through false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem as well as police corruption and collusion. Although corruption was endemic, there was no known anticorruption initiative linked specifically to trafficking. NGOs alleged that issues such as ignorance, a lack of political resolve, and corruption at the enforcement level perpetuated the problem. Police in Chennai, Mumbai, and New Delhi worked actively with NGOs to target traffickers and safeguard victims after their rescue.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the threat of apprehension by authorities, detention, prosecution, and deportation. Women involved in prostitution in Mumbai and Calcutta claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention. NGOs, victims, and the media continued to identify corruption at the enforcement level as an impediment to swift and fairer justice for trafficked women and children.

In many cases police or the staff of government remand centers, where rescued victims were housed temporarily, sexually abused trafficking victims. Similarly, arrested prostitutes were quickly returned to brothels after the brothel operators paid bribes to the authorities. In other cases, arrested prostitutes were released into the custody of traffickers and madams posing as relatives. In these cases, the debt owed by the girls to the brothel operators and traffickers increased, as the costs of bribing or legally obtaining release of the girls was added to their labor debt.

Some NGOs knowledgeable about the trafficking situation identified traffickers and the locations of girls being held captive by brothel owners. However, other NGOs were reluctant to trust police with this information, due to their past conduct in brothel raids and the likelihood that many trafficking victims would be arrested and re-victimized rather than assisted by such raids. Several NGOs had significant successes, however, in working with police to target brothels with children.

The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the government to provide protection and rehabilitation for these rescued girls. The vast majority of arrests made under ITPA were for solicitation rather than trafficking or trafficking-related crimes. During the year this pattern changed in Delhi, Bangalore and Mumbai. Police reportedly no longer arrested trafficked women and children for soliciting, and in Tamil Nadu, such arrests diminished significantly.

Implementation of the ITPA's provisions for protection and rehabilitation of women and children rescued from the sex trade improved. The government significantly increased police training and modestly improved inter-state coordination of antitrafficking efforts, cooperated with NGOs, supported awareness campaigns, and increased the number of shelter facilities available to rescued trafficking victims.

The Home Ministry and the Bureau of Police and Research Development (BPRD) began a law enforcement training program, considered a significant achievement by NGOs, to sensitize police and improve trafficking arrests and convictions. The Department of Women and Child Development (DWCD) improved delivery of support services through greater coordination with its state counterparts and civil society organizations. Government-run shelters in some localities, specifically Mumbai, expanded significantly under the *Swadhar* (women's home) scheme.

In March the home minister of Maharashtra ordered the closure of all dance bars operating in the state, many of which served as prostitution and trafficking outlets. In recent years, traffickers began favoring these bars as a venue in which to engage in trafficking, instead of the more blatant brothel-based trafficking. However, the government's implementation of this order without a rehabilitation plan caused displacement of women, forcing many to enter direct prostitution in Mumbai, Delhi, Goa, and other major trafficking destinations.

In November the Home Ministry organized a significant conference with the United Nations Office of Drugs and Crime to raise awareness of human trafficking and to state, for the first time, their commitment to addressing this issue with resources and manpower.

Over the last several years, arrests and prosecutions under the ITPA increased slightly. All indications suggested a growing level of trafficking into and within the country. In particular, due to the Maoist instability in Nepal, trafficking increased significantly from that country.

*Persons with Disabilities.*—The Persons with Disabilities Act provides equal rights to all persons with disabilities; however, advocacy organizations acknowledged that its practical effects were minimal, in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government buildings, educational establishments, and public spaces throughout the country had almost no provisions for wheelchair access. The Tamil Nadu government introduced a 3 percent reservation for persons with disabilities in education and employment, and government buildings have made arrangements for wheelchair access. However, human rights activists complained that available facilities were not sufficient.

Mental health care was a problem. Hospitals were overcrowded and served primarily as dumping grounds for persons with disabilities. Patients generally were ill-

fed, denied adequate medical attention, and kept in poorly ventilated halls with inadequate sanitary conditions. In July the NHRC determined that insufficient attention was paid to issues of the mental illness and called for better enforcement of national laws. At year's end, no action was taken on the 2001 NHRC recommendation to remove all persons with mental illness from jails. In March the NHRC issued guidelines to jails lodging mentally challenged persons stipulating the need for open lawns, daily physical and mental activities, and strict rules limiting the use of force to self-defense and attempted escape.

The government provided special arrangements for voters with disabilities during the April–May parliamentary elections, but it was not able to meet their needs on a countrywide basis. Pursuant to a Supreme Court directive, the election department attempted to make all polling places accessible by providing wooden ramps. However activists criticized the Election Commission's lack of compliance and delay and were physically prevented from protesting outside of the commission's office in April. The government provided access to most polling stations in larger cities like New Delhi, but access in rural areas was uneven.

The disability division of the Ministry of Social Justice and Empowerment delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the government to provide rehabilitation centers to more than 400 districts, but services were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly raised public awareness of the rights of persons with disabilities.

The National Commission for Persons with Disabilities (NCPD) had the responsibility to recommend to the government specific programs to eliminate inequalities in status, facilities, and opportunities for disabled persons, to review the status and condition of institutions delivering services, and to submit annual reports with recommendations. In February the government constituted a new NCPD headed by a former governor, Sunder Singh Bhandari. In April the Rajasthan High Court directed the state government to promote the establishment of special schools for disabled children in both the public and private sectors; however, few teachers were trained to meet the special needs of disabled children. Also, the National Center for the Promotion of Employment for Disabled People stated in September that there was a shortage of educational institutions for the disabled and that the admissions process was marked by harassment.

In February the country's civil services introduced a quota for the employment of 20 persons with disabilities per year.

In June the central board for secondary education issued guidelines to schools requiring barrier-free education in schools, colleges, libraries, and hostels. It also took steps to provide Braille books to educational institutions.

In July disabled rights NGOs reported that persons with disabilities were not able to obtain duty free imports of artificial limbs, crutches, wheelchairs, walking frames, and other medical needs. They also claimed that no effort was made to make railway compartments, platforms, and railways accessible to the disabled, and noted that less than 1 percent of the disabled were employed.

In August the government began the first disabled-friendly train service between Bhopal and Nizamuddin (Delhi) station. The train had an exclusive coach for persons with disabilities and Braille tags for seat and berth numbers in all coaches.

The Equal Opportunities, Protection of Rights and Full Participation Act of 1995 stipulates a 3 percent reservation in all educational institutions for persons with disabilities; however, statistics showed that only about 1 percent of the students had disabilities. The Times Insight Group reported in September that most colleges and universities did not know about the law.

The government provided special railway fares, education allowances, scholarships, customs exemptions, rehabilitation training and budgetary funds from the Ministry of Rural Development to assist the disabled; however, implementation of these entitlements was not comprehensive. Parents of children with developmental disabilities lobbied the government for a special security fund, but, no action was taken on this request at year's end.

*National/Racial/Ethnic Minorities.*—The 1955 Civil Rights Act made the practice of untouchability, which discriminates against dalits and others defined as scheduled castes, a punishable offense; however, such discrimination remained ubiquitous, stratifying almost every segment of society. Many members of lower castes were relegated to the most menial of jobs and had little social mobility. The widespread belief that dalits and low caste Hindus, Muslims, Christians, and Sikhs were

inferior compounded the discrimination they faced. Despite stated efforts by the government to eliminate the discriminatory aspects of caste, the practice remained, and widespread discrimination based on the caste system occurred throughout the country. Human rights groups asserted that the government was not committed to ending caste-based discrimination, pointing at the government's failure to fill over 50 thousand vacant positions specifically reserved for dalits.

The law gives the president the authority to identify historically disadvantaged castes, dalits, and tribal persons (members of indigenous groups historically outside the caste system). These "scheduled" castes, dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of active debate. According to the 2001 census, scheduled castes, including dalits, made up 16 percent (166.6 million) of the population, and scheduled tribes were 8 percent (84.3 million). In June the Andhra Pradesh cabinet approved a 5 percent reservation for Muslims in government jobs and educational institutions, raising total reservations in the state to 51 percent of the state government workforce. By allotting 5 percent to Muslims, the government recognized Muslims as a disadvantaged minority. In December parliament passed a constitutional amendment providing for reservation to scheduled castes, tribes, and the other backward classes in non-minority, unaided, private educational institutions.

Many rural dalits worked as agricultural laborers for caste landowners without remuneration. The majority of bonded laborers were dalits (see section 6.c.). Dalits, among the poorest of citizens, generally did not own land, and often were illiterate. They faced significant discrimination despite laws to protect them, and often were socially prohibited from using the same wells, attending the same temples, and marrying upper-caste Hindus. In addition, they faced social segregation in housing, land ownership, and public transport. Many dalits were malnourished, lacked access to health care, worked in poor conditions (see section 6.e.), and continued to face social ostracism.

Despite a high court order and judicial directives first issued in 1998, dalits continued to be excluded from the Kandadevi car festival, a Hindu temple celebration in Tamil Nadu. During the year, the Tamil Nadu government permitted only 26 dalit families to take part in the festival. NGOs reported that crimes committed by higher caste Hindus against dalits often went unpunished, either because the authorities failed to prosecute such cases or because the crimes were unreported by the victims, who feared retaliation.

The National Campaign on Dalit Human Rights alleged higher-caste Hindus discriminated against dalit fishing communities and that local governments were negligent in providing aid and registering dead or missing dalits in the aftermath of the December 2004 tsunami. NGOs and some government officials concurred, stating that higher-caste fishing communities had discriminated against dalit communities and prevented them from receiving aid. For example, during tsunami relief operations, the Nagapattinam, Tamil Nadu, village council distributed government-supplied aid only to fisherman and not to dalits who were also left homeless. On January 12, as reports of discrimination surfaced, the government deployed 10 trucks of relief supplies specifically for dalit communities.

On October 19, *The Indian Express* reported that Sanjay Nandan, a government official working for the Election Commission in Bihar, actively discriminated against dalits and lower caste members, claiming that Nandan was disappointed that there was no way to determine an employee's caste in the human resources database. Nandan claimed that the Gujarat government, where he previously worked, listed caste as a field in the database, making it easy to pick and choose officials by caste. When the Election Commission learned of his discrimination, they transferred Nandan back to Gujarat. No further action was taken against Nandan, or against the government of Gujarat, at year's end.

Violence against dalits was a problem during the year. For example on May 19, in Gowribindur, Karnataka, upper-caste Hindus clashed with those from lower castes. The South India Cell for Human Rights Education (SICREM) lodged a complaint with the district collector. In July five dalits were killed in caste clashes in Madhya Pradesh. A 21-year-old dalit man was killed in July in Vellore district in Tamil Nadu when he was attacked by 14 caste Hindus. Eight of the attackers were arrested.

In August 50 dalit houses in Gohana, Haryana, were set on fire by a mob after dalits were accused of murdering a caste Hindu. Police intervened to disperse the crowds, and no one was injured. dalits staged protests against the incident in Amritsar, Kapurthala, and Ludhiana in September, and clashed with the police. There were 20 arrests, and 6 policemen were injured. It was alleged that some non-dalits

attempted to limit dalit participation in the political process. Human rights lawyers and activists accused police of arresting dalit leaders to keep them away from the polls. A fact-finding mission led by SICREM revealed that in March, in a village in Karnataka, upper caste persons destroyed dalit homes and injured six after a dalit group won local elections. There were no arrests in this case. In October in Mujehra Khurd, Mirzapur, three men set fire to a dalit woman after she refused to withdraw from a village election. Police launched a search for the men, but there were no reports of an arrest. In December in Raisen District of Madhya Pradesh, five upper-caste men chopped off the arm of a dalit woman who refused to withdraw rape charges against their fellow caste members. An investigation was ongoing at year's end.

Christians historically rejected the concept of caste; however, because many Christians were converts from low caste or dalit backgrounds, they continued to suffer the same social and economic limitations as Hindu dalits, particularly in rural areas. Low-caste Hindus who converted to Christianity also lost their eligibility for affirmative action programs, while those who became Buddhists or Sikhs did not.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and prescribes stiff penalties for offenders; however, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase, and that it claimed hundreds of lives. Caste violence was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

Social pressures to enforce caste lines led to episodes of vigilante retribution against dalits who tried to assert their independence. While rare in urban settings, examples of intolerance occurred regularly in rural parts of the country. Complicated social and ethnic divisions in society created severe localized discrimination.

In January the dalit-based Bahujan Samaj Party announced that it distributed axes to its workers in Rajasthan to strengthen 'dalit power,' and counter violent attacks by upper caste Hindus. Also in January upper caste landlords in Ferozepur, Punjab, forced three dalit boys to drink urine after a fight over a cricket match. The boys were later handed over to the police and kept in custody for eight days.

Discrimination against dalits covered the entire spectrum of social, economic, and political activities, from withholding of rights to killings and was not solely practiced by high-caste Hindus against the lower castes and dalits. The stratification within the dalit community also resulted in discrimination by higher-level dalits against lower-level dalits. There was also discrimination within the Christian community by older, established ancestral Christians against more recent dalit Christian converts.

In 2004 the newly elected BJP government in Rajasthan selectively withdrew a large number of caste discrimination cases filed against the RSS and other Hindu nationalist groups during the tenure of the previous Congress-led government.

*Indigenous People.*—The Innerline Regulations enacted by the British in 1873 provide the basis for safeguarding tribal rights in most of the northeastern border states, and in practice the regulations were followed. These regulations prohibit any nontribal person, including citizens from other states, to cross an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in tribal areas without approval from tribal authorities.

The 2001 census indicated that 8.2 percent of the population belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal Peoples, 80 percent of the tribal population lived below poverty level, and more than 40 thousand tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation (see section 5, Trafficking, and section 6.c.). The 1955 Protection of Civil Rights Act prescribed special courts to hear complaints of atrocities committed against tribal people. In February 2004 the Supreme Court decided that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 still applied to crime victims from scheduled tribes and castes, even if they had converted from Hinduism to another religion. The decision was in response to an appeal of a Kerala high court decision, which held that because a rape victim had converted to Christianity she was no longer covered by the act.

Despite constitutional safeguards, the rights of indigenous groups in eastern parts of the country often were ignored. The NCRB reported 26,252 crimes committed against Scheduled Castes and Scheduled Tribes in 2003. Indigenous peoples suffered discrimination and harassment, were deprived of their land, and subjected to torture and to arbitrary arrest. For example, in December in Kalahandi District, Orissa, 4 tribals who had worked for 3 months without pay were seriously beaten and locked in a shed when they asked for their wages, while 15 others were forced to stand naked for hours during a cold night. The four tribals escaped and com-

plained to the district labor office, which reportedly inquired into the charges. No other action took place.

There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. In July 2004 forest department staff ignored a Supreme Court order and forcefully evacuated a tribal village in the Betul district of Madhya Pradesh. Persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal persons occurred in many states (see section 1.c.).

Numerous tribal movements demanded the protection of tribal land and property rights. The Jharkhand movement in Bihar and the Bodo movement in Assam reflected deep economic and social grievances among indigenous peoples. As a result of complaints, tribal-populated states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh and authorities provided local autonomy to some tribal people in the northeast.

*Other Societal Abuses and Discrimination.*—Section 377 of the Penal Code punishes acts of sodomy, buggery and bestiality; however, the law is commonly used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Human rights groups stated that gay and lesbian rights were not considered legitimate human rights in the country. In November the government declined to change provisions of Section 377 outlawing homosexuality. In a response to a case being heard by the Supreme Court, the government stated, “public opinion and the current societal context in India does not favor the deletion of the said offense from the statute book.” Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who do not hide their orientation were fired from their jobs. Homosexuals also faced physical attacks, rape, and blackmail. Police committed crimes against homosexuals and used the threat of Section 377 to coerce victims into not reporting the incidents. The overarching nature of Section 377 allowed police to arrest gays and lesbians virtually at will. However, in July in Jharkand, two lesbians belonging to the scheduled tribes married in defiance of both law and tradition.

In September 2004 the Delhi High Court dismissed a legal challenge to Section 377. Plaintiffs filed the case in 2001 after police arrested four gay and lesbian rights workers at the NAZ Foundation International and National Aids Control Office premises in Lucknow, Uttar Pradesh. Police charged the workers with conspiracy to commit “unnatural sexual acts” and possession of “obscene material,” which was reportedly safe-sex educational materials. The workers were detained for more than 45 days and denied bail twice. The court dismissed the case, ruling that the validity of the law could not be challenged by anyone “not affected by it,” as the defendants had not been charged with a sex act prohibited by law. In April despite the September 2004 challenge of Section 377 by two gay and lesbian NGOs, the NAZ Foundation International, and the National Aids Control Office, the government submitted a petition to the Supreme Court reaffirming the validity of Section 377.

Homosexuals were detained in clinics against their will and subjected to treatment aimed at curing them of their homosexuality. The NAZ Foundation filed a petition with the NHRC regarding a case in which a man was subjected to shock therapy. The NHRC declined to take the case as gay and lesbian rights were not under its purview.

Authorities estimated that HIV/AIDS had infected approximately 4.5 million persons, and there was significant societal discrimination against persons with the disease. According to the ILO, 70 percent of persons suffering from HIV/AIDS faced discrimination.

In Ahmedabad in April 2004, an HIV positive woman committed suicide at her home after allegedly being harassed by her co-workers.

HRW said that many doctors refused to treat HIV-positive children and that some schools expelled or segregated children because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing. In August the media reported that an AIDS patient, Arjun Debnath, who was initially refused admission in several hospitals in West Bengal, was chained to his hospital bed until a human rights group intervened.

In January 2004 a Mumbai High Court ruled that HIV-positive persons could not be fired on the basis of their medical status.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association, and the government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400

million persons made up the country's active work force, and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million, some 80 percent of the unionized workers were members of unions affiliated with 1 of the 5 major trade union centrals.

In practice legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities when the victims were members of nationally organized unions. Unaffiliated unions were not able, in any instance, to secure for themselves the protections and rights provided by law. Union membership was rare in the informal sector.

The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties were unable to agree on equitable wages, the government may establish boards of union, management, and government representatives to make a determination. The legislation distinguishes between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states had laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified essential industries; however, essential services never have been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act. Thus the act is subject to varying interpretations from state to state. State and local authorities occasionally used their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Supreme Court upheld a Kerala high court verdict declaring all general strikes illegal and making organizers of such protests liable for losses caused by the shutdowns, drawing attention to the difference between a complete closedown of all activities and a general strike. While it is likely that the ruling was introduced to discourage political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes. In August 2004 the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.

There are seven Export Processing Zones (EPZs). Entry into the EPZs ordinarily was limited to employees, and such entry restrictions applied to union organizers. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not vigorously pursue efforts to organize private-sector employees in the years since EPZs were established. Most EPZ workers were women. The International Confederation of Free Trade Unions reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their being fired.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or bonded labor, including by children; however, such practices remained widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor by adults and children. Offenders may be sentenced up to three years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large



number of children (see section 6.d.). According to an ILO report published during the year, an overwhelming majority of bonded laborers belonged to the scheduled castes and scheduled tribes.

Some press reports in 2002 indicated that Tamil Nadu alone had 25,800 bonded laborers, in response to which the state government began planning and implementing rehabilitation programs. Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic by illegal Bangladeshi immigrants was a source of bonded labor (see section 5, Trafficking). According to press reports, an NGO in Madurai rescued 33 children sold into slave labor during the year. According to the Ministry of Labor and Employment, 266,283 bonded laborers were identified and rehabilitated in recent years.

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread problems (see section 5, Trafficking). According to press reports from 2004, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see section 1.c.). *Devadasis*, defined as prepubescent girls given to a Hindu deity or temple as “servants of God,” were taken from their families and required to provide sexual services to priests and high caste Hindus. Many of the girls eventually were sold to urban brothels (see section 5).

*d. Prohibition of Child Labor Practices and Minimum Age for Employment.*—The government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor was a problem. The law prohibits the exploitation of children in the workplace; however, NHRC officials admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, that children were particularly vulnerable to exploitation, and that the commission was focusing on the adequacy of existing legislation.

There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in factories, mines, and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for six hours between 8 a.m. and 7 p.m., with one day's rest weekly. In addition to industries that utilize forced or indentured child labor (see section 6.c.), there was evidence that child labor was used in the following industries: hand-knotted carpets; gemstone polishing; leather goods; sari weaving; beadwork; and sporting goods. The government assisted working children through the National Child Labor Project, established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The law stipulates penalties for employers of children in hazardous industries to be \$430 (Rs. 20 thousand) per child employed, and establishes a welfare fund for formerly employed children. The government is required to find employment for an adult member of the child's family or pay \$108 (Rs. five thousand) to the family. According to the South Asian Coalition on Child Servitude, authorities were pursuing over six thousand cases against employers. NGOs noted that requiring the government to pay the family of a child laborer or finding the adult family member a job could be a disincentive to investigating crimes.

Estimates of the number of child laborers varied widely. According to the Ministry of Labor and Employment census, there were 12.7 million child laborers in the country. The government reported that Delhi had 41,899 child laborers. Through the Child Labor (Prohibition & Regulation) Act, 1986, the government convicted 1,799 offending employers in 2001–02, 325 in 2002–03 and 3,910 in 2003–04. The ILO estimated the number at 44 million. However, NGOs asserted the number of child laborers is closer to 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, or worked as domestic servants.

The working conditions of domestic servants and children in the workplace often amounted to bonded labor. Children were often sent away to work because their parents could not afford to feed them or in order to pay off a debt incurred by a parent or relative. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there were as many as 300 thousand children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions.

In 2000 the government issued a notification prohibiting government employees from hiring children as domestic help; however, this did not prevent nongovernment employees from employing children as domestic help, and many children were employed as domestic help throughout the country. On February 23, in West Bengal, according to the Asian Human Rights Commission, a police sub-inspector tortured an 8-year-old girl he employed after accusing her of stealing cookies. The girl was hospitalized for serious head injuries and at year's end, the sub-inspector was not charged.

On June 29, police and an NGO rescued children from Bihar working in an embroidery factory in New Delhi. Two persons were arrested.

Those employers who failed to abide by the law were subject to penalties specified in the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace. For example, in June 2004 the Allahabad high court ordered the release of nine children working with the Great Roman Circus. At year's end the case was still pending.

In 2003 the labor commissioner estimated that there were 3 thousand bonded child laborers in the Magadi silk twining factories. In January 2004 HRW interviewed children in three states, Karnataka, Uttar Pradesh, and Tamil Nadu, and found that production of silk thread still depended on bonded children.

State governments were responsible for the enforcement of laws against child labor, but oversight was generally lax, especially in the informal sector, which employed most children. The continuing prevalence of child labor was attributed to social acceptance of the practice, the failure of state and federal governments to make primary school education compulsory, ineffective state and federal government enforcement of existing laws, and economic hardships faced by families.

Employers in some industries took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets knowingly produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to voluntarily use a government-originated label to signify adherence to the code of conduct. However, the CEPC stated that even with its programs, it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted the inspections, which covered only 10 percent of registered looms. The inspectors had difficulty locating unregistered looms. The government also cooperated with UNICEF, the UN Educational, Scientific and Cultural Organization, the UN Development Programme, and the ILO in its efforts to eliminate child labor.

The government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145 thousand children were removed from work and provided with education and stipends since IPEC programs began in 1992. The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO rescued 33 children who had been sold into slave labor during the year.

*e. Acceptable Conditions of Work.*—State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. State governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which they operated.

State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors, and the inspectors' limited training and susceptibility to bribery resulted in lax enforcement.

The enforcement of safety and health standards also was poor.

Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the director general of mines' safety rules, mining companies must seal the en-

trances to abandoned underground mines, and opencast mines must be bulldozed and reforested. However, these rules seldom were obeyed.

Safety conditions were better in the EPZs than in the manufacturing sector. The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment. Legal foreign workers were protected under the law; however, illegal foreign workers had no protection.

## MALDIVES

The Republic of Maldives has a parliamentary style of government with a strong executive, and according to 2004 estimates, a population of approximately 285 thousand. The president appoints the cabinet and 8 members of the 50-member parliament. The president derives additional influence from his constitutional role as the “supreme authority to propagate the tenets of Islam.” The unicameral legislature, the People’s *Majlis*, chooses a single presidential nominee who is selected or rejected in a national referendum. Voters approved President Maumoon Abdul Gayoom for a sixth 5-year term in 2003. In May 2004 elections were held to choose the members of the Special Majlis, a body convoked by the president specifically to address constitutional reforms. The civilian authorities generally maintained effective control of the security forces.

The government’s human rights record improved during the year, but serious problems remained. The following human rights problems were reported:

- restrictions on citizens’ ability to change government
- abuses by security forces
- limited freedom of the press
- limited freedom of assembly and association
- restricted freedom of religion
- inequality of women
- restrictions on worker rights

The government made significant strides forward with respect to human rights during the year. On June 2, the parliament unanimously agreed to recognize political parties, allowing party leaders to hold public meetings. Prison conditions improved and most detainees’ families were informed of arrests, a marked improvement over previous years. The government allowed the International Committee of the Red Cross (ICRC) access to prisons in April and August.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year there were no reports that the government or its agents committed arbitrary or unlawful killings. On September 1, the courts found five former National Security Service (NSS) officials guilty of manslaughter and sentenced them to life in prison for their role in the killing of a prisoner during the 2003 Maafushi prison riots.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, although there were credible reports of mistreatment of persons during the course of arrest and transport to detention facilities. On August 12, following the arrest of opposition leader Mohamed Nasheed and three others staging a sit-down protest in Malé, demonstrations, some of which turned violent, broke out in the capital and continued for two nights. The government imposed a curfew the nights of August 12–14, and security forces detained 158 persons in connection with the demonstrations. By year’s end all persons taken into custody were released, although Mohamed Nasheed remained under house arrest. According to eyewitness accounts, some members of the NSS used excessive force in breaking up crowds, employing tear gas and rubber bullets, swinging their batons indiscriminately at by-standers, and occasionally beating persons in their path. The government claimed that security forces’ actions were proportional to rioters’ violence.

In general, punishments were limited to fines, compensatory payment, house arrest, imprisonment, or banishment to a remote atoll (see section 1.d.). The government generally permitted those who were banished to receive visits by family members.

*Prison and Detention Center Conditions.*—According to those who conducted visits, prison conditions generally met international standards, although pretrial detainees were not held separately from convicted prisoners. Unlike in previous years, there were no reports that prisoners were kept in cramped conditions in solitary confinement. Continuing improvements in prison conditions that began in 2004, most prisoners were granted access to legal counsel.

There were one prison and two detention centers in the country.

The government permitted prison visits by foreign diplomats, the ICRC, and the Maldives Human Rights Commission (MHRC). The ICRC conducted prison visits in April and in late August and was granted access to all facilities and detainees it requested. The MHRC also visited detainees following the August 12–14 unrest.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, persons were held arbitrarily by the government. According to the attorney general (AG), following the August 12–14 unrest in Malé, 158 persons were held in investigative detention. The AG added that those without previous police records were immediately released. Of those initially detained, (see section 2.b.), 76 persons were detained for 2 weeks without charge. However, unlike in previous years, most of the accused were permitted access to counsel and family members.

On June 2, the day parliament was to determine whether to recognize political parties, the government arrested six members of the opposition Maldivian Democratic Party (MDP), including MDP chairman Mohamed Nasheed. Government sources told the media that the arrests were a pre-emptive measure, designed to ensure parliament could deliberate peacefully without members of the opposition engineering public disturbances. The MDP denied that they had planned to interrupt or obstruct the parliamentary meeting. The government released the six MDP members on June 3.

*Role of the Police and Security Apparatus.*—The 287-officer Maldives Police Service, which until September 2004 functioned as a subset of the NSS, investigate crimes, collect intelligence, make arrests, and enforce house arrest. Although the NSS was responsible for external security, it also retains a role in internal security. The director of the NSS reports to the minister of defense.

Police initiated investigations in response to written complaints from citizens, police officers, or government officials, or on suspicion of criminal activity. They are not legally required to obtain arrest warrants or inform an arrested person of his rights, but government officials said that in practice, law enforcement officials were urged to inform arrested persons of their rights. The AG referred cases to the appropriate court based on the results of police investigations. The authorities generally kept the details of a case secret until they were confident that the charges were likely to be upheld.

Neither police corruption nor impunity posed problems during the year. Government inquiries into the 2003 Maafushi Prison uprising concluded that improved supervision of prison operations and increased rehabilitation opportunities for inmates were necessary, and these reforms were implemented.

*Arrest and Detention.*—The law provides for an arrestee to be informed of the reason for arrest within 24 hours. Based on improvements to the legal system during the year, a detainee must be informed of the right to counsel at the time of arrest. Detainees are permitted to hire a lawyer; however, the court does not appoint one. An arrestee's family must be informed of the arrest within 24 hours, although the law does not require that police inform the family of the grounds for the arrest. Unlike in previous years, detainees are permitted to have counsel present during police questioning. Under a bail system introduced during the year a prisoner has the right to a ruling on bail within 36 hours; however, there were reports that bail procedures were not adequately publicized, explained, or consistently implemented.

The law provides for investigative detention. Once a person is detained, the arresting officer must present evidence to a legal committee within 24 hours. The committee can then recommend detention for up to seven days pending further investigation. After the 7 days have expired, the officer can petition a second committee, which can then recommend detention for a maximum additional 15 days. If the authorities are unable to present sufficient evidence after the 22 days provided, the prisoner is eligible for release, although judges have the authority to extend detention past 22 days upon receiving a petition from the arresting officer, or on the basis of factors such as the detainee's previous criminal record, the status of the investigation, the type of offense in question, or whether the detainee might pose a threat to himself or others if released.

In February 2004 the government arrested approximately eight persons associated with the MDP, a then-unregistered political party, for planning a demonstration. The reason for the arrests was not clear; however, Amnesty International as-

sported that the men were arrested because the government suspected they were planning a demonstration against the government, while the international media reported the cause of arrest as traffic and burglary offenses. According to the AG, the government dropped all charges against the eight.

*e. Denial of Fair Public Trial.*—The law does not provide for an independent judiciary, and the judiciary is subject to executive influence. Until November, in addition to his authority to review high court decisions, the president influenced the judiciary through his power to appoint and dismiss judges. On November 12, the government announced the creation of a 10-member judicial services commission, led by the chief justice, responsible for appointing, dismissing, and examining the conduct of all judges. The commission recommends candidates for judgeships to the president; after the president approves a candidate, the commission maintains the right to accept his choice or veto it.

There are three courts: one for civil matters; one for criminal cases; and one for family and juvenile cases. There is also an independent high court in Malé which handles a wide range of cases, including politically sensitive ones. The president's judicial advisory council, led by the chief justice, is empowered to review all court rulings as the final arbiter of appeals.

*Trial Procedures.*—The law provides that an accused person be presumed innocent until proven guilty, and that an accused person has the right to defend himself "in accordance with Shari'a (Islamic law)." The judiciary generally enforced these rights. During a trial, the accused also has the right to be represented by a lawyer and may call witnesses (see section 1.d.). The prosecution collects all evidence and presents it to a judge, who has the discretion to choose what evidence he will share with the defense. Judges question the concerned parties and attempt to establish the facts of a case.

Most trials were public and were conducted by judges and magistrates trained in Islamic, civil, and criminal law. There were no jury trials.

Civil law is subordinate to Shari'a, which is applied in situations not covered by civil law, as well as in family law matters such as divorce and adultery. Courts adjudicating matrimonial and criminal cases generally do not allow legal counsel in court because, according to a local interpretation of Shari'a, all answers and submissions should come directly from the parties involved. However, the high court allows legal counsel in all cases, including those in which the right to counsel was denied in lower court. Those convicted have the right to appeal. Under the country's Islamic practice, the testimony of two women equals that of one man in matters involving Shari'a, such as adultery, finance, and inheritance. In other cases, the testimony of men and women are equivalent (see section 5).

*Political Prisoners.*—There were no confirmed reports of political prisoners; however, the MDP and the MHRC asserted that some persons were held for political reasons. Human rights groups, the MHRC, and the MDP stated that the August 12 arrest and subsequent prosecution of MDP Chairman Mohamed Nasheed on charges of terrorism and crimes against the state were politically motivated. Police initially informed Nasheed that he was being taken into protective custody. Later, police charged him with one count of terrorism and one count of committing a crime against the state—tantamount to sedition.

The government maintained that Nasheed fomented violence leading up to the August 12–14 demonstrations and that his trial was not politically based. By year's end authorities released all detainees arrested after those demonstrations, other than Nasheed. Nasheed's trial, which opened on October 27, remained in temporary adjournment at year's end, and Nasheed was remanded to house arrest. On October 18, the criminal court sentenced Jennifer Latheef, human rights activist and daughter of MDP spokesman Mohamed Latheef, to 10 years' imprisonment for her participation in a violent demonstration in Malé in 2003. In October authorities also sentenced 3 others to 10 years imprisonment for their involvement in the 2003 demonstration.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits security officials from opening or reading wireless messages, letters, telegrams, or monitoring telephone conversations, "except as expressly provided by law;" and unlike in previous years the government generally respected privacy rights in practice. However, a progovernment Web site intercepted, altered, and published e-mails written by Mohamed Nasheed, pro-opposition British citizens based in Sri Lanka and the United Kingdom, and one pro-opposition news reporter. The NSS may open the mail of private citizens and monitor telephone conversations if authorized to do so in the course of a criminal investigation.

Although the law provides that residential premises and dwellings should be inviolable, there is no legal requirement for search or arrest warrants. The AG or a commanding officer of the police must approve the search of private residences.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law does not provide for freedom of speech or of the press, and the government generally did not respect these rights in practice. The law limits a citizen's right to freedom of expression in order to protect the "basic tenets of Islam," and prohibits inciting citizens against the government.

Unlike in previous years, the government permitted members of political parties, including those in the opposition, to hold public meetings and rallies with prior government approval. The government approved a number of public meetings held by the MDP.

The government registered almost 200 independent newspapers and periodicals, but either a current or former government minister owned 3 of the 4 dailies published on a regular basis, *Aafathis*, *Haveeru* and *Miadh*.

The government or its sympathizers owned and operated the only television and radio stations. The government did not interfere with the sale of satellite receivers. However, a pro-opposition Colombo-based radio station reported that its broadcasts were blocked in Malé. The government radio and television stations aired reports drawn from other foreign newscasts.

After an easing of restrictions in the late 1990s, the government generally took a more stringent attitude toward freedom of the media. The country's press laws permit criminal rather than civil prosecution of writers or editors accused of irresponsible journalism. In September police investigated journalists affiliated with *Minivan News*, an independent pro-opposition news organization formerly affiliated with the MDP, because of *Minivan's* August 2 publication of an article quoting an MDP member who said those in the police force who use torture must be made to understand what pain they inflict. Government officials said that the article incited violence, and its author and editors should be subject to prosecution. At year's end the police investigation remained open (see section 1.e.).

On September 4, police arrested a *Minivan News* reporter taking photographs at an MDP rally. The reporter claimed he was kicked and beaten on the way to the police station, where he was placed in detention until September 25. He was then transferred to house arrest for an additional 20 days, after which he was released.

In October police detained editor Aminath Najeeb and reporter Abdulla Saeed for incitement during the August 12–14 unrest, and possible drug possession. Government officials claimed that these charges were apolitical and unrelated to Nasheed and Saeed's work as journalists. At year's end Nasheed was under house arrest and Saeed was still in detention. In all, police had investigated 7 out of 15 *Minivan News* staff since the paper registered in July.

On December 28, authorities initiated an investigation into *Minivan's* Colombo offices on charges that two *Minivan* employees were conducting seditious activity and arms trafficking. Sri Lankan police served a search warrant and examined *Minivan* premises in Colombo but found no evidence of criminal activity. *Minivan* stopped broadcasting radio news programs and the website's writers left Sri Lanka to work from the United Kingdom.

Although an amendment to the law decriminalizes "true account(s)" of government actions by journalists, both journalists and publishers practiced self-censorship. On April 28, authorities barred a foreign reporter for *Minivan News* from entering the country, for his alleged ties to Islamic terrorism (see section 2.d.).

Regulations that make publications responsible for the content of the material they publish remain in effect, but the government took no legal actions against publications initiated during the year.

There were no legal prohibitions on the import of foreign publications except for those containing pornography or material otherwise deemed objectionable to Islamic values.

The government generally did not interfere with the use of the Internet; however, it blocked the pro-opposition *Dhivehi Observer* news website and other sites deemed pornographic.

The law prohibits public statements contrary to government policy or to the government's interpretation of Islam. Therefore, although there were no reported cases of transgressions of these laws in the academic arena, the laws constrain academic freedom to the extent that academics practiced self-censorship.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly; however, the government imposed limits on this right in practice.

In 2004 the government relaxed informal restrictions on public assembly; however, demonstrations were only permissible with advance permission. During the year organized groups were required to seek government permission before meeting, but many meetings, including those held by the opposition, were officially sanctioned. After political parties were legally recognized on June 2, various groups held meetings to attract signatories to fill out party registration petitions.

During the August 12–14 protests in Malé, there were complaints of surveillance during which NSS officials photographed and videotaped those present. The government claimed that the photographers were documenting events to prevent allegations of police brutality; opposition groups said that the government limited their freedom of assembly and speech through intimidation and arbitrary arrests.

On September 6, the government repealed its one-day moratorium on political party rallies after the representatives of political parties assured the elections commissioner their leaders would not incite violence. The ban had been instituted to stem possible violence after a proposed MDP rally.

*Freedom of Association.*—The law provides for freedom of association; however, the government imposed some limits on freedom of association in practice. The government only registered clubs and other private associations if they did not contravene Islamic or civil law.

Unlike in previous years, the government allowed political parties to register and function. On May 21, after the AG issued a legal opinion stating that parties were permissible within the framework of the law, the president asked the People's Majlis to address the registration of political parties. On June 2, it agreed unanimously to permit political parties to register citizens as members.

There was one independent local human rights group, Hama; a few other non-governmental organizations (NGOs) focusing on tsunami relief existed in the country as well (see section 4). In 2003 the president formed, by decree, the MHRC, which met frequently until August. Commission members are appointed by the president. On July 21, the parliament approved a bill codifying the MHRC, and on August 18, the president signed the bill into law. The same day, MHRC Chairman Ahmed Mujthaba resigned, protesting that the MHRC bill did not make the organization fully compliant with UN guidelines. Two other commissioners followed suit in September, leaving the MHRC without a quorum and therefore unable to function at year's end.

*c. Freedom of Religion.*—The law does not provide for freedom of religion, and it was significantly restricted. The constitution designates Sunni Islam as the official state religion, and the government interpreted this provision as imposing a requirement that citizens be Muslims. The law prohibits the practice of any religion other than Islam. The government observes a combination of Shari'a and civil law. Civil law is subordinate to Shari'a, which is applied in situations not covered by civil law as well as in cases such as divorce and adultery. Foreign residents were allowed to practice their religion only if they did so privately and did not encourage citizens to participate. President Gayoom repeatedly stated that no other religion should be allowed in the country, and the home affairs ministry announced special programs to safeguard and strengthen religious unity. The president, the members of the People's Majlis, and cabinet members must be Muslim.

There were no places of worship for adherents of other religions. The government prohibited the import of icons and religious statues, but it generally permitted the import of religious literature, such as Bibles, for personal use. It also prohibited non-Muslim clergy and missionaries from proselytizing and conducting public worship services. Conversion of a Muslim to another faith is a violation of the government's interpretation of Shari'a and may result in punishment, including the loss of the convert's citizenship; however, there were no known cases of loss of citizenship from conversion to a non-Islamic religion. In the past, would-be converts were detained and counseled regarding their conversion from Islam.

Islamic instruction in school is mandatory, and the government funded the salaries of religious instructors. The government established a Supreme Council of Islamic Affairs to provide guidance on religious matters. The council certifies imams, who are responsible only for presenting Friday sermons. Imams may choose to use a set of government-approved sermons on a variety of topics, but they are not legally empowered to write sermons independently. No one, not even an imam, may publicly discuss Islam unless invited to do so by the government.

*Societal Abuses and Discrimination.*—Under the country's Islamic practice, certain legal provisions discriminate against women (see sections 1.e., 3, and 5). There were no known Jewish citizens, and there were no reports of anti-Semitic acts.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice. Citizens are free to travel at home and abroad, to emigrate, and to return. Employers often housed foreign workers at their worksites.

The law allows for forced exile, and the government used forced exile in practice. In June 2004 the criminal court sentenced Mohamed Aswan, second in command of the Maafushi Prison security unit, to six months' banishment to a remote island for disobeying government orders during the 2003 confrontation at the prison (see section 1.d.). Presidential pardons permitted the more than 600 persons temporarily banished to other islands to return to their homes.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol (see section 5), and the government has not established a system for providing protection to refugees or asylees. The government has cooperated in the past with the Office of the UN High Commissioner for Refugees; however, asylum issues did not arise during the year. The government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee status or asylum.

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

The law limits citizens' ability to change their government, and the strong executive exerted significant influence over both the legislature and the judiciary. Under the constitution the People's Majlis chooses a single presidential nominee, who must be a Sunni Muslim male, from a list of self-announced candidates for the nomination. Would-be nominees for president are not permitted to campaign for the nomination. The final nominee is confirmed or rejected by secret ballot in a nationwide referendum. From a field of four initial candidates in 2003, the People's Majlis nominated and confirmed President Gayoom by referendum for a sixth 5-year term. Observers from the South Asian Association for Regional Cooperation said the referendum was conducted in a free and fair manner. All citizens over 21 years of age may vote.

By both law and custom, the Office of the President is the most powerful political institution in the country, and the law designates the president as the "supreme authority to propagate the tenets" of Islam.

The president's mandate to appoint 8 of the 50 members of the People's Majlis provides him strong political leverage. The elected members of the People's Majlis, who must be Muslims, serve 5-year terms. Individuals or groups are free to approach members of the People's Majlis with grievances or opinions on proposed legislation, and any member of the People's Majlis may introduce legislation.

*Elections and Political Participation.*—In the January 22 People's Majlis elections, citizens elected several candidates allegedly sympathetic to the opposition. Critics of the government claimed that some candidates who remained under house arrest were unable to file applications to contest the elections by the November 2004 deadline; however, at least one candidate who was in detention at the filing deadline was able to file an application, conduct a campaign, and get elected.

In May 2004 citizens elected members of the People's Special Majlis, a body convened by the president to address constitutional reforms. The Special Majlis had 50 members of the regular People's Majlis and 50 members elected or appointed specifically for this reform process. The Special Majlis met several times during the year but made no progress toward constitutional reform. After the August 12–14 demonstrations in Malé, the government suspended the People's Majlis and Special Majlis for several days.

In June the government allowed the establishment of political parties (see section 2.b.). There were 2 elected women and 4 presidentially appointed women in the 50-member People's Majlis, and there was 1 elected woman and 4 presidentially appointed women in the 50-member Special Majlis. There were two women in the cabinet. Women are not eligible to become president but may hold other government posts.

In November a by-election was held to fill three seats in the People's Majlis. While candidates were not permitted to campaign on party tickets, parties were permitted to endorse candidates.

*Government Corruption and Transparency.*—There were anecdotal reports that the power of the president and his family directed many decisions, including economic activities and political reform. There was an anticorruption board that investigates allegations of corruption in the government. The board meets regularly and refers cases, usually concerning monetary fraud, to the AG's office.



There are no laws that provide for access to government information.

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

Few local NGOs existed in the country. Most NGOs focused on tsunami relief and not on human rights. These NGOs reported that they exercised self-censorship.

The ICRC conducted prison visits in April and August, and the International Committee of Jurists sent an observer to opposition leader Mohamed Nasheed's pre-trial hearing. In 2003 the president created the MHRC (see sections 2.d and 3). In July the People's Majlis passed legislation defining the commission's mandate, and on August 18, the president signed the bill into law. The MHRC remains authorized to investigate allegations of human rights abuses. After the August 12–14 demonstrations, the commissioners conducted prison visits. However, due to the resignation of three commissioners, including the chairperson, the MHRC was not functioning at year's end.

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

The law provides for the equality of all citizens, but there is no specific provision to prohibit discrimination based on race, sex, religion, disability, or social status. Women traditionally were disadvantaged, particularly in the application of Shari'a, in matters such as divorce, education, inheritance, and testimony in legal proceedings.

*Women.*—There were no laws regarding domestic violence against women. Both non-governmental and government sources agreed that domestic violence and other forms of violence against women were not widespread; however, there were no firm data on the extent of violence against women. There were no specific laws dealing with spousal rape. Police officials reported that they received few complaints of assaults against women. Rape and other violent crimes against women were rare.

Prostitution is illegal but occurred on a small scale.

There are no laws pertaining to sexual harassment.

Although women traditionally played a subordinate role in society, they participated in public life in growing numbers. Women constituted 39 percent of government employees. The literacy rate for women was 98 percent. A Gender Equality Council advised the government on policies to help strengthen the role of women. The minimum age of marriage for women is 18 years, but marriages at an earlier age were common.

Under Islamic practice, husbands may divorce their wives more easily than vice versa, absent mutual agreement to divorce. Shari'a also governed in estate inheritance, granting male heirs twice the share of female heirs. A woman's testimony is equal to one-half that of a man in matters involving adultery, finance, and inheritance (see section 1.e.). Women who worked for wages received pay equal to that of men in the same positions.

*Children.*—Education is not compulsory, but there is universal access to free primary education. In 2004 the percentage of school-age children in school (grades one to seven) was 79 percent; (grades eight to 10) 62 percent; and (grades 11–12) 16 percent. Of the students enrolled, 49 percent were female and 51 percent male. In many instances, parents generally curtailed education for girls after the seventh grade, not allowing girls to leave their home island for another island with a secondary school.

Children's rights are incorporated into law, which specifically seeks to protect them from both physical and psychological abuse, including at the hands of teachers or parents. The Ministry of Gender and Family Development has the authority to enforce this law and received strong popular support for its efforts. The ministry reported continued child abuse during the year, including sexual abuse. Penalties for the sexual abuse of children range from as much as three years imprisonment to banishment.

Government policy provides for equal access to educational and health programs for both male and female children.

Child labor remained a problem, primarily in agriculture, fishing, and small commercial activities, including in family enterprises. There were no reports of children being employed in the industrial sector (see section 6.d.).

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

*Persons with Disabilities.*—No law specifically addresses the rights of persons with physical or mental disabilities. A 2003 government census cited 4,728 persons with disabilities; however, local NGOs claimed that there were thousands more with disabilities due to high levels of malnutrition during pregnancy. The government

has established programs and provided services for persons with disabilities, including special educational programs for hearing and visually disabled persons. The government integrated students with physical disabilities into mainstream educational programs. Families usually cared for persons with disabilities. When family care was unavailable, persons with disabilities lived in the Ministry of Gender and Family's Institute for Needy People, which also assisted elderly persons. When requested, the government provided free medication for all persons with mental disabilities in the islands, but follow-up care was infrequent.

*Other Societal Abuses and Discrimination.*—The law prohibits homosexuality, and citizens did not generally accept homosexuality. The punishment for men includes banishment from 9 months to 1 year or whipping from 10 to 30 times. For women, the punishment is house arrest for nine months to one year.

There were no reports of official or societal discrimination against persons with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—While the law does not prohibit unions, it recognizes neither a worker's right to form or join a union nor the right to strike. In 2003 the government enacted a new law to strengthen the legal regime governing voluntary, not-for-profit associations. Small groups of similarly employed workers with mutual interests have formed associations, some of which include employers as well as employees. These associations have not acted as trade unions.

*b. The Right to Organize and Bargain Collectively.*—The law does not recognize workers' rights to organize and bargain collectively. Wages in the private sector are set by contract between employers and employees and are usually based on rates for similar work in the public sector.

There were no reports of efforts to form unions or of strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit forced or compulsory labor, including by children, but there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law bars children less than 14 years of age from paid or hazardous work. Guidelines prohibit government employment of children under 18 and employment in hazardous jobs such as construction, carpentry, welding, and driving.

According to the International Confederation of Free Trade Unions, child labor remained a problem in agriculture, fishing, and small commercial activities, including in family enterprises. Working hours for children 14 years or older are not limited specifically by statute. A unit for children's rights in the Ministry of Gender, Family Development and Social Security is responsible for monitoring compliance with the child labor regulations, but it was not charged with their enforcement. The Ministry of Employment and Labor has an employment relations and compliance unit that deals with child labor problems.

*e. Acceptable Conditions of Work.*—There was no national minimum wage for the private sector, although the government has established wage floors for government employment. These wage floors provided a decent standard of living for a worker and family. Given the severe shortage of labor, employers offered competitive pay and conditions to attract skilled workers.

There are no statutory provisions for hours of work, but the regulations require that a work contract specify the normal work and overtime hours on a weekly or monthly basis. The public sector provides a 7-hour day and a 5-day workweek.

The Ministry of Employment and Labor's employment relations and compliance unit resolves wage and labor disputes, visits worksites, and enforces labor regulations. There are no national laws governing health and safety conditions. There are regulatory requirements in certain industries such as construction and transport that employers provide a safe working environment and ensure the observance of safety measures. It was unclear whether workers could remove themselves from unsafe working conditions without risking the loss of their jobs.

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## NEPAL

Nepal is a constitutional monarchy with a parliamentary form of government and a population of approximately 25 million. On February 1, King Gyanendra dismissed the cabinet, declared a state of emergency, and assumed direct control of the government under the emergency powers article of the constitution, citing the need

to fight a Maoist insurgency. The state of emergency was lifted on April 29. Prior to February 1, the king ruled through a council of ministers that was under his chairmanship. International observers considered the most recent elections, the 1999 parliamentary elections, to be generally free and fair; however, elections have not been held since 1999 because of, according to the government, security concerns related to the Maoist insurgency, which has intensified since its inception in 1996. While the king generally maintained effective control of the security forces, elements of the security forces often acted independently of government authority.

The government's poor human rights record worsened and the government continued to commit many serious abuses, both during and after the state of emergency that suspended all fundamental rights except for habeas corpus. Members of the security forces and the Maoist insurgents committed numerous grave human rights abuses during the year. The following human rights problems were reported:

- obstruction of citizens' right to change the government
- arbitrary and unlawful lethal force, including torture
- vigilantism
- disappearances
- poor prison and detention conditions
- arbitrary arrest and lengthy pretrial detention
- impunity for security forces
- compromised independence of judiciary
- suspension of news broadcasts
- restrictions on the Tibetan community
- restrictions on internal travel
- discrimination against persons with disabilities and lower castes
- violence against women and trafficking in women and girls
- abuses of child labor
- restriction of worker's rights

In May the government welcomed the opening of the UN Office of the High Commissioner for Human Rights (OHCHR) in Kathmandu. Both OHCHR and the National Human Rights Commission (NHRC) reported improved access to detention centers and progress in locating persons listed as disappeared. In September the Supreme Court ruled that, unlike in previous years, children of unmarried women could claim citizenship under the 1990 constitution. In November the Supreme Court ruled that, unlike in previous years, women did not need permission from their husband or parents to get a passport. In December the Supreme Court ruled that women no longer needed to get the permission of their husband, son, or parents if they wished to sell or relinquish ownership of property.

During the year Maoists continued their campaign of torturing, killing, bombing, conscripting children, kidnapping, extorting, forcing closures of schools and businesses, and committing other serious and gross human rights abuses. Maoist impunity remained a significant problem. A local nongovernmental organization (NGO), Informal Sector Service Center (INSEC), estimated that during the year civilian fighting killed 1,630 persons, including 134 members of the police and Armed Police Force (APF); 203 members of the Royal Nepalese Army (RNA); 599 Maoists; and 267 civilians, including at least 30 students. Maoist actions limited press freedom and the right of assembly, constrained religious communities, prevented free movement, and stopped hundreds of thousands of children from receiving an education. Since the beginning of the insurgency in 1996, the Maoists had not credibly investigated human rights abuses committed by their forces, despite their claims to respect and uphold international conventions on human rights.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year security forces continued to commit arbitrary and unlawful killings. According to INSEC, security forces killed 964 suspected Maoists during the year. Additionally, RNA soldiers killed numerous others, including those in custody who were tortured, according to NGO sources (see section 1.c.). During the year the RNA's human rights investigative cell conducted nine new investigations. In most cases of arbitrary or unlawful killings, the security forces claimed the victims were Maoists.

On May 2, security forces shot and killed Rupen Rai in Ilam District. Witnesses claimed that security forces could have taken Rai into custody after the first shot, but they did not.

Human rights groups expressed concerns about a number of cases in which security forces claimed that suspects committed suicide while in government custody. For example on May 27, the RNA claimed that a Maoist insurgent, Dorje Sherpa, committed suicide by hanging himself inside his cell with a shoelace at Singha Durbar RNA barracks in Kathmandu.

Security forces occasionally used lethal force when attempting to question suspects. On July 3, plainclothes RNA forces in Kamatoli Bazaar, Jhapa, shot and killed Rama Adhikari, a farmer and mother of three children, after Maoists forced her to provide them with food. The RNA claimed she had a pistol, and threatened not to return Adhikari's body to her family unless her husband and neighbors signed a paper that confirmed she had a weapon. The RNA formed a court of inquiry to look into the matter; the NHRC recommended compensation to the victim's family.

Security forces used excessive force against persons in custody, resulting in deaths during the year. On July 6, police shot and killed Laxmi Yadab, Hari Prasad Yadab, Kari Kapar, and Kari Saha of Dhanusha, Dholbajatol, while in custody. Police stated that the four were Maoist cadres killed in crossfire. At year's end no action was taken to investigate the case, and none was expected.

On December 14, an RNA soldier fired into a crowd in Nagarkot, killing 11 civilians and injuring 19 others before killing himself. A high level judicial team appointed by the government found that the soldier acted alone and awarded immediate compensation to the victims.

There were no developments in the 2004 killings of Rajendra Paneru, Ganesh Syangtang, Subhadra Chaulagain, Reena Rasaili, Kishori Patel Kurmi, Suresh Raut Patel, Govinda Poudel, or for any victims of the February 2004 raid in Ward 4 Handikhola VDC.

On March 10, an RNA court-martial sentenced an RNA major to two years in jail and dismissed him from the army because of his involvement in the 2003 Ramechhap killing of Maoist detainees.

In September an RNA court-martial sentenced an RNA colonel and two captains for serious lapses in connection with the February 2004 killing of Maina Sunuwar in Kavre District. The RNA colonel was the highest-ranking officer court-martialed in a case tied to human rights abuses.

During the year there were no reports of injuries or deaths from RNA-planted landmines protecting military installations and infrastructure. The Maoists used landmines in and alongside roads, killing both security forces and civilians (see section 1.g.).

While Maoist rebels did not kill or injure anyone in Kathmandu during the year, they repeatedly clashed with security forces and engaged in targeted killing of security forces, government officials, and civilians. INSEC reported that insurgents killed 267 civilians during the year (see section 1.g.).

On August 3, Amnesty International (AI) reported that government-backed vigilante groups were increasing the level of terror and violence experienced by the civilian population. For example on March 13, a mob attacked and killed 12 Maoist elite in Kapilvastu District. A local human rights lawyer said that violence between vigilantes and Maoists resulted in 36 deaths, the destruction of 600 houses, and the flight of 20 thousand persons to the Indian border. On July 25, villagers in Dhading district killed seven Maoist rebels. On August 14, villagers killed at least five Maoists in Banke District after they abducted an elderly person. The government did not penalize villagers who were involved in vigilante killings.

*b. Disappearance.*—Under the 2004 Terrorist and Destructive Activities Ordinance (TADO), suspects must appear before a court within 60 days of their arrest, and the government can hold suspects in preventive detention for 360 days. Nevertheless, during the year there were disappearances of persons while in the custody of security forces. In some cases individuals disappeared, and their whereabouts remained unknown until much later when the government acknowledged that the individuals were detained under TADO (see section 1.d.).

On February 15, the military confirmed that it held Krishna Khatri Chhetri, vice president of the banned All Nepal National Independent Student Union (Revolutionary) (ANNISU-R), due to its affiliation with the Maoists. Plainclothes RNA forces took Chhetri into custody in 2003 and detained him incommunicado for approximately two years. In May 2004 the Supreme Court ordered the NHRC to investigate the case, but when NHRC representatives visited the army barracks, the RNA produced three other detainees who claimed Chhetri was not in custody. The RNA confirmed his whereabouts only after the Supreme Court again ordered it to

do so. The court ordered Chhetri released on September 22; however, police re-arrested him on the Supreme Court premises, and he remained in detention at year's end.

On June 23, the day after the government told the Supreme Court that Nawaraj Subedi, General Secretary of the People's Front Nepal Party, was not in its custody, the NHRC found him in the Lalitpur District Police Office. According to the NHRC, Subedi had been in police custody for two months. No action was taken against the government, and none was expected.

On September 4, two 15-year-old girls, Radha Bhusal—first arrested on April 17—and Geeta Nepali—first arrested on May 10—were rearrested after the appellate court ordered their release. Security forces held the youths incommunicado, and allegedly beat and sexually harassed them as suspected Maoists from the date of their initial arrest until June 17 when the government transferred them to Kapilvastu prison. Police denied any knowledge of their re-arrest.

INSEC data of unresolved disappearances lists the government as responsible for the disappearance of 1,305 persons from the beginning of the insurgency in 1996 through November 30. The Maoists, according to INSEC figures, were responsible for the abduction of 46,794 persons, and the disappearance of 8,715 persons during the year. By year's end the government had not prosecuted government officials or Maoists for their involvement in disappearances, and no prosecutions were expected.

The NHRC reported that while it had information that the government had arrested 1,697 people from 1996 until December 10 of this year, the government had yet to confirm custody of 901 of those people. The NHRC reported that 290 persons were in Maoist custody.

In March Human Rights Watch (HRW) released a report documenting 200 enforced disappearances perpetrated by the RNA, APF, and police between 1998 and 2004. In 28 of the documented cases, families of the disappeared had reliable information that security forces killed their relatives after they were taken into custody but, with only a single exception, the deaths were never officially confirmed.

The RNA set up a national registry of detainees and cooperated with the United National Working Group on Enforced or Involuntary Disappearances (WGEID) to resolve the status of 106 cases from 2004. The RNA definitively answered 98 cases and was investigating 8 other cases at year's end. The RNA released 54 persons and found that 4 persons died, 3 on the battlefield and 1 in custody. The RNA initiated a court-martial on the death-in-custody case.

The government's five-member committee, formed in 2004 to investigate disappearance claims, released reports in February, April, June, and August, cumulatively locating 580 persons previously listed as disappeared.

There were no developments in the 2004 disappearance of Hari Krishna Adhikari. Disappearances at the hands of the Maoists continued to be a significant problem (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture, beating, and mutilation; however, security forces regularly engaged in such activities to punish suspects or to extract confessions. The Center for Victims of Torture (CVICT), a local NGO, reported that blindfolding and beating the soles of feet were commonly used methods. The government failed to conduct thorough and independent investigations of reports of security force brutality and generally did not take significant disciplinary action against those involved. Citizens were afraid to bring cases against the police or the army for fear of reprisals.

On September 16, the UN Special Rapporteur on Torture concluded that the police, APF, and RNA systematically practiced torture and ill-treatment in order to extract confessions and to obtain intelligence against Maoists. The government insisted it was committed to preventing human rights abuses and indicated that disciplinary action had been taken against the guilty. The RNA stated it had looked into 179 cases of alleged torture presented by the UN. The NHRC has not received information regarding disciplinary action taken by the RNA in these cases.

The law provides for compensation for victims of torture. According to CVICT, 9 persons filed for compensation under the act during the year, and of the 184 cases filed since the act was created in 1996, the court made a decision to award compensation in 26 cases, but at year's end, compensated only one claimant.

On July 22, the RNA, in a court martial, found six RNA soldiers guilty of sexual-related misconduct while on peacekeeping duty in the Democratic Republic of Congo. All offenders received 3-month prison sentences and a reduction in rank.

On July 24, six armed plainclothes security forces took Lokendra Khadka from his house in Kathmandu with his hands tied behind his back and a hood over his head. Security forces threatened to kill him and used water torture, beatings, and electric shocks to force him to admit to being a Maoist.

On September 12, Shiv Bohora, 23, acting president of the Nepal Student Union at Mahendra Ratna Campus, Kathmandu, claimed that police beat him with batons, boots, and the butts of their rifles, causing him to lose control of his bladder and bowels, and ultimately lose consciousness after he was arrested for throwing stones in a campus protest. Police were investigating the incident, and the case remained open at year's end.

On September 12, Sunsari district court handed down a verdict against three soldiers charged with raping a 16-year-old girl in November 2004. The RNA turned the soldiers over to the civilian district court for trial.

There were no developments in the 2004 abuse case of two Tibetan refugee girls in Lukla.

There were numerous allegations of torture by Maoists insurgents (see section 1.g.).

*Prison and Detention Center Conditions.*—Prison conditions were poor and did not meet international standards. According to the Department of Prisons, of the 7,135 persons in jail, 3,189 had been convicted of a crime and 3,946 were awaiting trial.

On September 16, the UN Special Rapporteur on Torture highlighted overcrowding and poor sanitation of prisons and detention centers. He described the conditions in Hanumandhoka police office, Kathmandu, as inhuman. Cells were filthy, poorly ventilated, and overcrowded, with 12 persons in a 3-meter by 4-meter cell; there was no provision for leisure activities; and there were several 14-year-old boys detained among adults.

Due to a lack of adequate juvenile detention facilities, children sometimes were incarcerated with adults as criminal offenders or were allowed to remain in jails with their incarcerated parents due to lack of other available options (see section 4).

The government generally permitted the NHRC and OHCHR to make unannounced visits to prisons and detainees in army and police custody. The UN Special Rapporteur on Torture reported unhindered access to places of detention during his visit; however, the International Committee of the Red Cross (ICRC) suspended visits in April citing access problems.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but arbitrary arrest continued during the year.

*Role of the Police and Security Apparatus.*—The RNA exercised responsibility for security in the country under an operational structure referred to as the “unified command,” which included elements of the police and the APF. Chief District Officers (CDOs), the highest-ranking civil servant in each of the country's 75 districts, have wide discretion in maintaining law and order. Both the police and RNA have human rights cells to promote human rights and to investigate cases of abuse; however, corruption and impunity remained problems. Police were generally unarmed and had the role of preventing and investigating non-terrorist related criminal behavior, while the APF were armed and deployed as riot control at checkpoints or with RNA units directly engaged against Maoist insurgents.

In December the RNA reported that since 2001, when the RNA began to engage with the Maoists, the RNA investigated 163 cases of abuse. Of the 163, 51 cases resulted in prison sentences for 6 months to 10 years; 34 cases resulted in discharge from service; 13 cases resulted in demotion; 18 resulted in forfeiture of grade or promotion; 46 resulted in warnings in personnel files; and 1 case was sent to civil court.

*Arrest and Detention.*—The law stipulates that, except in cases involving suspected security and narcotics violations, the authorities must obtain a warrant for arrest, arraign or release a suspect within 24 hours of arrest, and file a case in court within 7 days of arrest, but security forces regularly violated these provisions (see section 1.f.).

If the court upholds a detention, the law authorizes the police to hold the suspect for 25 days to complete an investigation, with a possible extension of 7 days. However, security forces occasionally held prisoners longer. In some cases the Supreme Court ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, reported difficulty in obtaining bail.

Detainees not held under special antiterrorist legislation have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice the police granted access to prisoners on a basis that varied from prison to prison; however, the government consistently denied Maoist suspects visits from family members and lawyers. There is a system of bail, but bonds were too expensive for most citizens. Due to court backlogs, a slow appeals process, and poor access to legal representation, pretrial detention often exceeded the period to which persons subsequently were sentenced after a trial and

conviction. Human rights groups alleged that arrest without a warrant, prolonged detention without trial, and police torture were especially evident in heavily Maoist-affected areas (see section 1.c.).

Under the Public Security Act, security forces may detain persons who allegedly threatened domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. The government may detain persons in preventive detention for up to six months without charging them with a crime. The detention period could be extended after submitting written notices to the home ministry. The security forces must notify the district court of the detention within 24 hours. The court may order an additional six months of detention before the government must file official charges. The government commonly applied this act in cases involving suspected Maoists and political and civil rights activists (see section 1.b.). Human rights groups alleged that the security forces used arbitrary arrest and detention to intimidate communities considered sympathetic to the Maoists.

Between February 1 and the end of the state of emergency on April 29, the NHRC estimated that police arrested and detained more than 3,284 political protestors. The government arrested 25 political leaders and put 18 other prominent politicians under house arrest without due process. The NHRC reported that the police prevented them access to persons under house arrest four times. The government released all political detainees and ended all house arrests by the end of June.

Other laws, including the Public Offenses Act, permit detention without charge. This act, and its many amendments, covers crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the CDO. Police arrested many citizens involved in public disturbances, rioting, and vandalism and detained them for short periods without charge. After the lifting of the state of emergency, the government routinely arrested journalists, civil society members, and politicians for trying to enter restricted areas to protest. Police released most within 24 hours of their arrest.

On September 13, police arrested over 529 leaders and party cadres for trying to enter a prohibited area in Kathmandu to protest the lack of democracy. Police released all of those detained the following morning (see section 2.b.).

Authorities occasionally detained journalists on suspicion of having ties to or sympathy for the Maoists (see section 2.a.).

There were reports of political detainees during the year, especially during the state of emergency. On March 14, police arrested over 750 persons belonging to the 5 main political parties that were demonstrating against the February 1 royal proclamation. All were released by year's end.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but courts remained vulnerable to political pressure. Additionally, citizens bribed judges and Maoists intimidated them.

The Supreme Court has the right to review the constitutionality of legislation passed by parliament. Appellate and district courts were increasingly independent, although sometimes they remained susceptible to political pressures.

The judicial system consists of three levels: district courts, appellate courts, and the Supreme Court. The king appoints judges on the recommendation of the judicial council, a constitutional body chaired by the chief justice. The council also is responsible for the assignment of judges, disciplinary action, and other administrative matters. A special court hears cases related to narcotics trafficking, trafficking in women and girls, crimes against the state, corruption, and crimes related to foreign currency. The appellate courts hear cases against suspects charged with violations under the TADO.

Delays in the administration of justice were a severe problem. As of July 15, the Supreme Court reported a backlog of 16,293 cases, the appellate courts had 10,157, and district courts had 25,699.

*Trial Procedures.*—While the law provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, except in some security and customs cases, these rights were not equally applied. Judges decide cases; there is no jury system. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort, but the king may grant pardons. The king also may suspend, commute, or remit any sentence.

The law provides prisoners with the right to legal representation and a court-appointed lawyer, a government lawyer, or access to private attorneys; however, the government provided legal counsel only upon request. Consequently, those persons

unaware of their rights may be deprived of legal representation. Police often denied suspects detained under TADO access to both attorneys and family members.

According to the Nepal Bar Association (NBA), authorities released lawyer Sujindra Maharjan from custody in December 2004. While no definitive proof was available, the NBA reported that former prime minister K.P. Bhattarai told them that lawyer Rajendra Dhakal, arrested in Gorkha District in 1999, was dead. At year's end there was no investigation into Dhakal's disappearance.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. Military personnel are immune from prosecution in civilian courts, except for cases of rape. Military courts cannot try civilians for crimes, even crimes involving the military services; these cases are handled in civilian courts.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions, but no such trials have occurred since 1991.

TADO cases are heard in the appellate courts. Suspects may appeal verdicts to the Supreme Court.

In districts where Maoists gained some measure of administrative control, they have set up "people's courts." These courts did not generally have due process and generally decided only civil cases.

*Political Prisoners.*—There were no government reported political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—During the state of emergency, the king suspended the right to privacy. The government suspended all land and cell phone lines and the Internet, allegedly for security concerns. The government reactivated landline phone service on February 7, postpaid cell phones on May 1, and pre-paid cell phones on August 22. Nevertheless, human rights activists and politicians said that authorities monitored and blocked Internet and cell phone service after the lifting of the state of emergency at the end of April (see section 2.a.).

Security forces routinely entered and searched houses without warrants. Under TADO the security forces may conduct searches as long as they inform the subject of the search in advance. Security personnel frequently conducted vehicle and body searches at roadblocks in many areas of the country.

There were no reports of the government forcing civilians to resettle. However, Maoists regularly forced civilians to flee their homes in order to escape extortion, recruitment, or retaliation.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—During the year there was significant internal conflict between the government and Maoist insurgents. Both parties injured and killed numerous civilians. On May 16, 12 armed Maoist cadres in civilian dress abducted and killed Shanker Sarki, an RNA soldier who had returned home to Kailali District from Congo where he had served on a UN peacekeeping force.

On April 30, security personnel entered a university campus in Kanchanpur District and shot three students who were associated with the leftist All Nepal National Free Students Union. The wounded students were later taken to Kathmandu Army Hospital for treatment, and the NHRC recommended that the government provide free medical treatment and the equivalent of \$704 (approximately 50 thousand NPR) compensation to each student. The government had not compensated the victims at year's end.

On June 13, in Dhangadhi, Kailali District in the far-west, suspected Maoists raped and killed the wives of three APF personnel, also killing a 1-year-old boy and two other civilians. The Maoists most often targeted political leaders, local elites, teachers, local-level civil servants, and suspected informers for harassment and attack (see section 1.a.).

On June 19, CPN-M Chairman Prachanda directed party members to avoid physical action against any unarmed persons, even if they were criminals. However, on June 21, Maoists killed four unarmed persons, including two Nepali congress (democratic) political party cadres in Siraha District.

On September 13, notwithstanding their 3-month unilateral ceasefire, Maoists killed Navaraj Thapaliya in Gorkha District after abducting him on September 11.

Maoists were also responsible for numerous abductions during the year. INSEC reported that between February 13, 1996 and the end of the year, Maoists abducted 46,759 persons. The whereabouts of over 8,693 of those abducted remained unknown.

During the year Maoists expanded a campaign of abducting civilians, primarily students and teachers, allegedly for indoctrination programs and forced paramilitary



training. From February 1 to December 6, Maoists abducted 11,397 students and 2,810 teachers from schools and bombed over a dozen schools across the country.

Maoists used landmines in and alongside roads to attack police, military, and government vehicles, injuring numerous civilians (see section 1.a.).

On April 10, a landmine blew up a passenger bus carrying security forces, killing at least 5 civilians, including a minor, and wounded 27 others in Sarlahi District in the central region. On June 6, Maoists killed 39 persons, including 3 RNA personnel, after they ignited a landmine under a passing passenger bus in the Madi area of Chitwan District in the central region. Approximately 70 others were wounded in the attack. On June 10, Maoists killed six security personnel and two civilians when they attacked a passenger bus with a landmine in Kavre District.

The ICRC on some occasions was able to convince the Maoists to release captured and detained individuals into ICRC custody. On September 14, Maoists handed 60 RNA soldiers captured on August 7 to the ICRC.

Maoists used civilians, including children, as human shields in wave attacks against fortified military positions. Both sides in the conflict used children as informants (see section 5).

On February 14, Maoist insurgents destroyed six schools in Rukum District, accusing the students and teachers of supporting the local administration. On February 20, Maoists detonated bombs in five schools in Banke District in the mid-western region in retribution for the schools defying a Maoist-called "educational strike." The militants also exploded a powerful bomb at the main gate of Nepalgunj Medical College on the same day, wounding three civilians.

Since February 25, insurgents forced over 370 schools to close indefinitely, affecting approximately 100 thousand students in Bardia District.

On February 26, rebels set fire to an examination center in Taplejung District and on April 2, Maoists bombed another examination center in Dang District.

On April 14, hundreds of private day and boarding schools throughout the country closed after the ANNISU-R, the student wing of the Maoists, called an educational strike. The ANNISU-R demanded, often violently, the halving of tuition, curriculum changes, and banning the singing of the national anthem. In some areas Maoists demanded that schools follow a calendar devoid of religious holidays (see section 2.c.).

In May Maoists forced more than 200 schools to close in Baglung District, and 150 schools in Palpa District, after the rebels announced that they would recruit students for the purpose of indoctrination and militia training. According to local CDOs, the schools in these districts reopened within two weeks of their closure.

The Maoists regularly blocked relief organizations from reaching civilian populations in order to force NGOs to sign agreements with Maoist regional committees.

Maoists regularly extorted money from businesses and workers, as well as NGOs. When individuals or companies refused or were unable to pay, Maoist recrimination frequently was violent. For example on August 17, Maoists bombed and set fire to Jyoti Spinning Mills, destroying machinery and storehouses containing raw and processed material after the company refused to pay Maoist extortion demands.

Frequent Maoist-declared closures involving the stoppage of work in economic sectors, including transportation, were enforced through violence, which caused particular hardship to workers.

In July and August the Maoist-affiliated labor union, the All Nepal Federation of Trade Unions, imposed a transportation strike and closed tea estates in parts of the eastern region, causing losses of \$15 thousand (approximately 1 million NPR) a day, leaving 25 thousand daily laborers jobless, and causing shortages in the marketplace (see section 6).

Maoists regularly forced family members of those serving in the police or army, and thousands of civilians, including political party activists, to flee their homes (see sections 1.a., 1.f., and 2.d.).

In April Maoists shot and attacked Hari Prasad Gautam, 70, with swords, forcing him to flee Ramechhap District when he failed to capitulate to their extortion demands. Maoists reportedly killed his cattle and set his house afire. The police saved his life by arranging a rescue flight to Kathmandu.

On July 6, armed Maoists forcibly expelled Rukimi Gurung and her husband from their house in Panchthar District, telling the couple to live with their son who had recently joined the RNA. The Maoists similarly locked up the houses of over 30 security personnel in surrounding villages.

On July 25, Refugees International reported that during the year many citizens migrated to India in order to avoid the forced conscription policy enforced by the Maoists, requiring each family to provide one child to the Maoists.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the government imposed restrictions on these rights, and these restrictions increased during the state of emergency and afterward. The law prohibits speech and writing that would threaten the sovereignty and integrity of the kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

On October 21, the government promulgated a new media ordinance containing restrictions on the media. According to a December report by the International Commission of Jurists, a Geneva-based international rule of law and human rights NGO, the ordinance entrenches a ban on news reporting by private FM radio stations, includes vague and arbitrary prohibitions on content, such as extending the prohibition on criticism of the king to other members of the royal family, restricts dissemination of news from foreign sources, enables a government-controlled press council to recommend to the government revoking a journalist's press credential, and places new restrictions on cross-media ownership that effectively targets only the Kantipur media organization, a consistent government critic that owns newspaper, television and radio outlets. Following the issuance of the ordinance, armed authorities raided Kantipur FM and seized satellite uplinking equipment. On November 27, authorities raided Sagarmatha FM and briefly arrested five staffers and also seized station equipment. The authorities later returned seized equipment to Sagarmatha and Kantipur.

Also on October 21, the government issued a new Election Code of Conduct that seeks to limit media freedom in covering elections. For instance, the code restricts media from publishing a candidate's attack against an opponent and requires that speeches by party leaders or candidates be published verbatim. The Maoists imposed restrictions on free press through intimidation and the killing of journalists.

In addition, The Press and Publications Act prohibits publication of material that, among other things, promotes disrespect toward the king or the royal family; undermines security, peace, order, the dignity of the king, or the integrity or sovereignty of the kingdom; creates animosity among persons of different castes and religions; or adversely affects the good conduct or morality of the public. There were no reports of prosecutions under the act during the year, although in August the information and communications minister publicly threatened unspecified action against *The Kathmandu Post* and *Kantipur*, respectively sister English and Nepali newspapers (and members of the Kantipur media group), for publishing a front-page cartoon lampooning the monarchy. On several occasions police and CDOs interrogated newspaper editors about certain articles they had published, and threatened them with imprisonment.

The act also provides a basis for banning foreign publications, although foreign publications were widely available, and none were banned or censored during the year. Foreign print media operating in and reporting on the country were allowed to operate freely.

The independent media were active and expressed a wide variety of views, although opinions against the royal proclamation were not printed for several weeks after the imposition of the state of emergency. Hundreds of independent vernacular and English-language newspapers were available, representing various political points of view. The government-owned *Gorkhapatra*, a Nepali-language daily, and *The Rising Nepal*, the third-largest English-language daily, reflected government policy.

Police arrested numerous journalists, many for protesting in favor of press freedom in restricted areas. Police released most journalists within 24 hours of their arrest. On March 7, police arrested Kanak Mani Dixit and kept him in custody for four hours, inquiring about his recent trip to Delhi and asking if he had tried to meet Maoist leaders while there. On June 8, police detained more than 50 journalists conducting a peaceful rally demanding press freedom. They were charged with violating a prohibition against unlawful assembly in the capital. The government released them on June 9. In July the International Press Freedom and Freedom of Expression Mission to Nepal estimated that 1 thousand of the 10 thousand people who worked in the media sector before February 1 had lost their jobs due to decreased circulation and the drop in government ads in private media critical of the government. In August government-owned media fired approximately 70 journalists, allegedly for their political views. According to INSEC, Maoists killed 14 journalists since 1996, although authorities reported no killings during the year.

Beginning in February at the onset of the state of emergency, the government restricted publication of news against the king's proclamation by sending armed security forces to major media houses. Some of these officials reviewed and censored edi-

torial products. This physical government presence at daily newspapers lasted approximately one week, while some weekly publications endured official visitors for approximately three weeks.

During the state of emergency, the government intimidated some media outlets to practice self-censorship. On February 5, *The Kathmandu Post* published an editorial that discussed socks, in protest of the restrictions on press freedom.

On February 23, the Kathmandu CDO summoned editors of five vernacular weeklies to inquire about blank spaces in their publications to protest government censorship.

After the lifting of the state of emergency, journalists in Kathmandu reported without significant self-censorship, although government restrictions imposed on February 1 banning reporting that encouraged the Maoists or that was contrary to the “spirit of the Royal proclamation of February 1” remained in place. Following the king’s February 1 proclamation, the government stopped advertising in papers whose editorial views did not support the king, affecting revenue of some papers.

The Broadcast Act allows private television and FM radio broadcasts. The government owned two television stations—*Nepal TV* and *Nepal TV Metro*—and controlled one radio station that broadcast both shortwave AM and FM signals. There were 47 independent radio stations that reached over 90 percent of the population. Until February 1, privately owned FM stations were permitted to broadcast their own independently collected news, but they were required to broadcast government news at least once daily; however, from February 1 to August 11, the government prohibited all FM stations from broadcasting news despite a 1999 Supreme Court ruling giving broadcast journalism equal status to the print media. Stations were able to broadcast information and entertainment programs. On August 11, the Supreme Court issued a stay order preventing the government from implementing a decree to close private radio stations broadcasting news. The Supreme Court’s ruling allowed the FM radio stations to resume broadcast news while awaiting a final verdict, and 17 stations resumed airing news on August 11.

The government banned airing of foreign TV and radio channels except BBC, Fox News, and CNN following February’s royal takeover. On June 12, the ban was lifted for all channels except the New Delhi-based *Nepali One*, for an alleged relationship between one of the channel’s reporters and the Maoists. The government did not otherwise restrict access to foreign radio broadcasts, private cable networks, or the purchase of television satellite dishes. The government censored broadcasts of the BBC English radio service, replacing its 15-minute news service with music. *BBC Nepali* on shortwave, however, generally continued to be available.

There were three licensed private television stations operating in the country. In addition to entertainment programming, commentary critical of government policies aired during publicly broadcast discussion programs. Indian, Chinese, and Pakistani television broadcasts were readily available in many parts of the country.

On September 19, police in the mid-western district of Dailekh used TADO authority to arrest a reporter, Harihar Rathore, from a Kantipur daily, accusing him of being a Maoist accomplice. Rathore refuted such allegations, saying he was targeted both by the security personnel and the Maoists for disseminating news based on fact. Over a dozen journalists left the district alleging that local Maoist and government authorities were similarly threatening them. On September 21, the Federation of Nepalese Journalists (FNJ) and the International Federation of Journalists (IFJ) successfully negotiated Rathore’s release.

On October 4, imprisoned *Rastriya Swabhimani* reporter Maheshwar Pahari died of typhoid while in custody after being denied proper medical treatment by authorities. According to the Committee to Protect Journalists, Pahari was held under an antiterrorism law that was used to jail journalists since it was introduced in 2001. Authorities released and re-arrested Pahari four times after January 2004 in order to comply with the law, which limits detention without trial to six months. In May Pahari was released from jail and arrested before he could leave the compound (see section 1.a.).

Human rights activists and politicians reported blocked or monitored Internet service during and after the lifting of the state of emergency. The government blocked more than 20 Web sites, including the Maoist Web site, that were hosted in other countries and were not supportive of the king (see section 1.f.).

There were no government efforts to curtail academic freedom during the year.

The Maoists did not allow freedom of expression and tightly restricted print and broadcast media. Maoists threatened private FM radio stations to force them to broadcast Maoist propaganda, and the Maoists themselves operated small, mobile FM radio stations that broadcast propaganda.

On January 3, in Rukum District, Maoists confiscated the belongings of a BBC-affiliated journalist and a French reporter, accused them of being spies, and threatened to kill them unless they left the area.

On May 18, Maoists attacked and damaged a transmission station of Nepal Television (NTV) in Palpa District.

On July 10, Maoists released Som Sharma, an Ilam-based journalist after abducting him and holding him for 56 days. In the same district, Maoists released a Radio Nepal correspondent, Umesh Gurung, from house arrest. The FNJ negotiated with the Maoists for their release.

Maoist groups curtailed academic freedom, regularly extorted money from private schools and teachers, and inflicted punishment on school officials. According to INSEC, from January 1 to December 6, Maoists abducted 11,397 students and 2,810 teachers from schools for indoctrination programs, and bombed over a dozen schools across the country (see section 1.g.). Despite a 3-month ceasefire, the country's media continued to report on instances of abduction, extortion, and intimidation by Maoists outside the Kathmandu valley.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association; however, the government restricted this right in practice. On February 1, and continuing after the state of emergency was lifted, the government continued to restrict freedom of assembly, claiming it was necessary to prevent the undermining of the sovereignty and integrity of the state or for disturbing law and order.

*Freedom of Assembly.*—The law provides for freedom of assembly; although some large public demonstrations were common in parts of the country, the government restricted demonstrations both during and after the state of emergency. During the year some protests turned violent, and police sometimes used baton charges to break up demonstrations.

On August 25, police controlling a student demonstration in Rajbiraj fired shots into the crowd, injuring a passer-by who was not involved in the protest. The police claimed a protestor threw rocks at the officer, causing his gun to go off accidentally. Students maintained that the firing was not accidental. Police were investigating the incident, but there were no developments at year's end.

On September 18, local human rights organizations expressed concern over indiscriminate police brutality during demonstrations organized by political parties. They claimed that police illegally entered private houses, charged at peaceful protesters with batons, and excessively used tear gas. The organizations stated that police arrested 1,563 persons between September 4 and 14 and that the organizations found 248 persons injured, including demonstrators and police during the protest.

On September 14, Kathmandu police fired teargas at protesters, causing 12 primary students in a nearby school to become unconscious. In the same incident, police chased demonstrators through a hospital, wounding six, before a doctor in an operating room told the police to leave.

On September 20, OHCHR issued a statement protesting the government's announcement of new areas outside the Kathmandu valley where demonstrations would no longer be permitted. OHCHR also registered concern over reports of excessive force by the police in their bid to quell public demonstrations and expressed concern that the demonstrators themselves were resorting to violence.

Throughout the year local authorities in Kathmandu prevented the Tibetan community from holding public celebrations, including those to venerate the Dalai Lama (see section 2.c.).

During the year Maoists deprived citizens of the right to assembly. On July 26, Maoists detonated a pipe bomb at a public gathering that Maoists held in Doti District, wounding 16. Enraged villagers handed four Maoists over to security forces but, fearing Maoist reprisals, almost all of the villagers, including women, children, and the elderly, fled the village for district headquarters or the nearby jungle (see section 1.a.).

*Freedom of Association.*—The law provides for freedom of association, although the government restricted these rights during and after the state of emergency which began on February 1. The government claimed it restricted freedom of association in order to protect the sovereignty and integrity of the state.

Government officials refused to register any organizations whose titles contain the words, "Jesus, Bible, Christian, or church." (see section 2.c.) These groups noted that, unless registered, such organization could not own land, important for establishing churches or burial of members. These groups have been able to register their organizations and practice their faith as NGOs.

*c. Freedom of Religion.*—The law provides for freedom of religion and permits the practice of all religions, but members of minority religions occasionally complained

of police harassment. Some Christian groups were concerned that the ban on proselytizing limited the expression of non-Hindu religious belief. The law describes the country as a Hindu kingdom, although it does not establish Hinduism as the state religion.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

A conviction for conversion or proselytizing can result in fines or imprisonment, or in the case of foreigners, expulsion from the country; however, there were no incidents of arrest for conversion or proselytizing during the year.

On September 2, police in Kathmandu prohibited Tibetans celebrating Tibetan Democracy Day from carrying pictures of the Dalai Lama in public, a restriction that has been imposed since 2002. The government restricted to private places (school grounds or inside monasteries) all local Tibetan celebrations (Tibetan New Year, the Dalai Lama's birthday, Democracy Day, and International Human Rights Day/Celebration of the Dalai Lama receiving the Nobel Peace Prize).

*Societal Abuses and Discrimination.*—Although prohibited by law, caste discrimination was widely practiced at Hindu temples in rural areas and strongly influenced society. After a group of dalit women visited a Hindu temple in Siraha District on October 3, villagers prohibited them from entering shops or using public facilities available in the village. The villagers allowed the dalit women to shop after a few days, but continued to prohibit the women from revisiting the Hindu temple. No action was taken against the villagers.

Beginning October 16, some upper caste locals in Sarakpura VDC in Saptari District imposed a blockade on a dalit hamlet, to punish the latter for not playing drums during a local fete. Six dalit families were prohibited from using the public path and denied access to rice mills, medical shops, and public taps. A compromise was reached after a few days, and the dalits resumed playing drums during festivals.

There were regular reports of Maoists enforcing a "people's calendar" in schools that did not allow for religious holidays. According to one Christian organization, Maoists demanded the use of church grounds for their indoctrination programs in the eastern region. Maoists forced churches to close after the churches refused to meet their demands.

There are no known Jewish adherents in the country, and there were no known anti-Semitic acts.

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

*d. Freedom of Movement Within The Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the government suspended freedom of movement within the kingdom under the state of emergency. The government cancelled all local and international flights on February 1 and 2 and prevented many prominent human rights activists and politicians from traveling within, or in some cases leaving, the country, even after the lifting of the state of emergency. INSEC documented 40 cases where the government barred citizens from leaving the Kathmandu valley between February 5 and June 2.

On February 25, security forces prevented Laxman K.C., Vice chairman of the Afro-Asian People's Solidarity Organization, from leaving Kathmandu to participate in a conference in Cairo, Egypt.

On February 26, security forces prevented Subodh Raj Pyakurel, Chairman of INSEC, from leaving Kathmandu in order to conduct human rights training in Nepalgunj.

On September 12, security personnel stopped Madhav Kumar Nepal, General Secretary of the Communist Party of Nepal (UML), from traveling to the house of a party member in Tulsipur, Dang District. In 2001 a dawn-to-dusk curfew was imposed in Tulsipur, when Maoists walked out of the first round of peace talks and attacked an army barrack in Dang.

The government regularly restricted refugees' right to travel freely outside of the country.

Maoists restricted freedom of movement within the country, including forcing transportation strikes and using landmines to target civilian transportation (see sections 1.a and 1.g.).

The law prohibits forced exile, and forced exile was not used during the year. The government allowed citizens to emigrate and those abroad to return, and was not known to revoke citizenship for political reasons.

*Internally Displaced Persons (IDPs).*—Internal displacement caused by the Maoist insurgency continued to be a problem, with estimates of the number displaced ranging widely. International organizations estimated that between 100 thousand and

200 thousand citizens may have been internally displaced. The variation existed because those displaced usually found shelter with relatives and did not register with the government or seek assistance.

The government allowed IDPs access to domestic and international humanitarian organizations and permitted them to accept assistance provided by these groups.

According to OCKENDEN International, there were six IDP camps run by different NGOs in Banke District in the mid-west. These camps, created in 2000, held approximately seven to eight thousand IDPs. NGOs provided medicine, education to children, logistics and temporary shelter.

On September 18, the CDO of Humla District took 25 female IDPs into custody for 3 hours for causing obstructions in public places after they surrounded an empty food-storage building and demanded food.

*Protection of Refugees.*—The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol (see section 5), but the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and the government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylees. The UNHCR maintained an office in Kathmandu and a sub-office in Damak.

Between 1959 and 1989 the government accepted as residents approximately 20 thousand Tibetan refugees, most of whom still reside in the country. Since then the government has allowed Tibetan refugees to transit the country. During the year 3,395 Tibetan arrivals registered with UNHCR for transit to India, and 3,352 reportedly departed. This was the second highest number of arrivals (largest was 3,697 in 1993) since UNHCR began assisting transiting Tibetans in 1990. Since 1991 the government has provided asylum to approximately 105 thousand persons who claim Bhutanese citizenship. The great majority of these refugees lived in UNHCR-administered camps in the southeastern part of the country. Approximately 15 thousand additional Bhutanese refugees resided in the country and in India outside of camps. The government allowed UNHCR to provide services for other asylum seekers, such as individuals from Iraq and Sudan. The government permitted UNHCR to visit the Nepal-China border four times during the year.

The People's Republic of China and the government tightened control of movement across the border in 1986, but neither side consistently enforced these restrictions. Police and customs officials occasionally harassed Tibetan asylum seekers who fled China. According to UNHCR, police conduct has improved since 1999, although border police sometimes extorted money from Tibetans in exchange for passage. There were unconfirmed reports that Tibetan asylum seekers were sometimes handed back to Chinese authorities after crossing the border. Maoists regularly robbed Tibetan refugees traveling from border areas to Kathmandu.

The UNHCR monitored the condition of Bhutanese refugees and provided for their basic needs; however, the government refused to allow UNHCR to profile and verify those in the Bhutanese refugee camps. The government accepted the temporary refugee presence on humanitarian grounds. The UNHCR administered camps; the World Food Program (WFP) provided sustenance; and the government made a contribution to the WFP earmarked for the refugees.

The government officially restricted Bhutanese refugees' freedom of movement and work, but it did not strictly enforce its policies. Bhutanese refugees were not allowed to leave the camps without permission, but it was consistently granted. Local authorities attempted to restrict some of the limited economic activity in the camps permitted by the central government. Violence sometimes broke out between camp residents and the local population.

In October the government stopped issuing travel documents necessary for resident Tibetan and Bhutanese refugees to leave the country, saying it had to study the issue. In November the government also stopped issuing exit permits to Tibetan refugees transiting to India, also saying it had to study the issue. However, the government allowed Tibetans to enter Nepal, and apply for and receive UNHCR protection.

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

The law provides citizens with the right to change their government peacefully; however, citizens were not afforded this right in practice. The government claimed the ongoing insurgency prevented the holding of elections, and since the dismissal of the elected government in 2002, the king has appointed three interim govern-

ments. On February 1, the king dismissed the cabinet, citing the emergency powers article in the constitution. At year's end parliament had not been reestablished.

*Elections and Political Participation.*—Past elections generally were held throughout the country according to schedule, and parliamentary elections are to be held every five years. International observers considered the 1999 elections, the last elections held, to be generally free and fair. Executive power is vested in the king and the council of ministers.

The law bars the registration and participation in elections of any political party that is based on religion, community, caste, tribe, region, or that does not operate openly and democratically. The election commission reported that there were 128 registered political parties in the country. Under the law individuals may contest elections in the district in which they are on the election rolls, whether independently or with a political party. Seven of the largest political parties formed an alliance in May, headed by Girija Prasad Koirala, president of the Nepali Congress Party. Most larger political parties have associated youth wings, trade unions, and social organizations.

There are no specific laws that restrict women, indigenous people, or minorities from participating in government or in political parties, but tradition limited the roles of women and some castes in the political process. The law requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. The law also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. There were two women in the most recent cabinet appointed by the king.

No specific laws prevented minorities from voting or restricted their participation in government or political parties on the same basis as other citizens. There were no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any minority group. Members of certain castes traditionally held more power than others. Of the current 35-member cabinet, 12 were from ethnic minority communities.

*Government Corruption and Transparency.*—The law provides for an anticorruption authority, the Commission for the Investigation of the Abuse of Authority (CIAA), which is mandated to investigate official acts of corruption. In September the CIAA began investigating three cabinet ministers for their involvement in an illegal plan to profit from smuggled fertilizer subsidized by the Indian government.

Following the February 1 proclamation, the king constituted another corruption investigation body called the Royal Commission for Corruption Control (RCCC), which acted as investigator, prosecutor, and judge. On July 26, the RCCC ordered a jail sentence of two years and a fine of over \$500 thousand (approximately 36 million NPR) on both former prime minister Sher Bahadur Deuba and former minister Prakash Man Singh for irregularities associated with the awarding of a contract for the Asian Development Bank (ADB)-funded Melamchi Water Supply Project. The RCCC would not accept into evidence an ADB report that found no irregularities in the awarding of the contract.

The law provides citizens with a right to information "on any matter of public importance," except in cases where secrecy is required by law; however, there is no formal legislation providing citizens with access to government information. There were no known examples of this section of the law being tested.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials sometimes were cooperative and responsive to their views. After the state of emergency was declared on February 1, the government detained a number of civil society members and prevented others from leaving the country or traveling outside the capital (see section 2.d.). In addition there were complaints of intimidation being used against human rights NGOs and workers by both the government and the Maoists.

There were approximately 10 independent, domestic human rights NGOs, including the Human Rights Organization of Nepal INSEC; the International Institute for Human Rights, Environment, and Development; and the Human Rights and Peace Society. The Nepal Law Society also monitored human rights abuses, and a number of other NGOs focused on specific areas such as torture, child labor, women's rights, or ethnic minorities.

The insurgency caused many NGOs to reduce substantially their activities. There were frequent credible claims that Maoists refused to allow human rights NGOs and

journalists to enter certain western districts. In addition Maoists killed and abducted some NGO workers.

On May 15, four foreign aid agencies suspended operations in Kalikot District because Maoists extorted money and seriously assaulted one male and one female staff member of an NGO they supported. Maoists tried to force the woman to dig her own grave but her injuries were too serious to allow her to complete digging. On September 21, the aid agencies resumed operations in Kalikot, acknowledging that they had obtained an understanding with the Maoists, who agreed not to use aid for military, political or sectarian purposes.

The government welcomed and regularly granted visas to international NGOs and other human rights monitors, including members of AI and HRW.

In April the government and OHCHR signed an agreement to establish an office in the country to assist the government in formulating and implementing policies and programs for the promotion and protection of human rights.

On August 19, OHCHR released its first two reports. The first report focused on two Maoist attacks on civilian transport buses being used by the military (see section 1.g.). OHCHR emphasized the primary responsibility of the Maoists for the killing of civilians, but also found that the RNA failed to "take precautions" to protect the civilian population by repeatedly using public transportation. In response to OHCHR's findings, the RNA demoted two officers for poor judgment. The second report focused on the abduction and murder of family members of APF personnel (see section 1.a.). OHCHR could not clearly identify the perpetrators, but called on the Maoists to investigate the incident. Local media freely reported on these two OHCHR reports.

From April 13 to 22, the representative of the UN Secretary-General on the human rights of internally displaced persons visited the country to assess the situation of IDPs. The representative concluded that IDPs were largely overlooked and neglected (see section 2.d.).

From September 10 to 17, the UN Special Rapporteur on Torture visited the country and concluded that security forces systematically practiced torture and ill-treatment. He also noted evidence of torture and mutilation carried out by the Maoists (see section 1.c.).

On May 26, the government, through a royal ordinance, amended the 1997 act that created the NHRC, appointed four new commissioners, and reappointed the chair. While the commission was to operate independently, resource constraints and insufficient manpower restricted the number of cases the commission investigated. Once the NHRC completes an investigation and makes a recommendation, the government has three months to respond. Since its establishment in 1997, the commission has received 3,365 complaints of human rights violations. The NHRC investigated and gave a decision on compensating in 72 cases, of which the government acted on eight cases, awarding 18 people compensation. The government was reviewing nine other cases for possible compensation. The NHRC identified that the government had arrested 1,697 people reported to NHRC as disappeared. While a number of people were subsequently released, the NHRC maintains that the government continues to hold 901 persons secretly. The NHRC identified the Maoists as abducting 290 persons who are still missing. The NHRC also investigated illegal detention and arrest of acquitted persons.

On August 11, the government dissolved three human rights organizations functioning under different government ministries and agencies and constituted a central committee and two sub-committees to manage and address human rights issues raised by the NHRC and other human rights organizations.

#### *Section 5. Discrimination, Societal Abuses, Trafficking in Persons*

The law specifies that the government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a caste system operated throughout the country in many areas of daily life. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

*Women.*—Domestic violence against women was a serious problem that received limited public attention. There was a general unwillingness among police, politicians, citizens, and government authorities to recognize violence against women as a problem. Sensitizing programs by NGOs for police, politicians, and the general public have led to a greater awareness of the problem. The women's cell of the police received 730 reports of domestic violence during the country's fiscal year, which ended on June 15. However, in the absence of a domestic violence law, police were unable to file cases against the accused.

Police had 18 women's cells in 16 of the country's 75 districts, with female officers who received special training in handling victims of domestic violence and trafficking. Police also sent out directives instructing all officers to treat domestic vio-



lence as a criminal offense that should be prosecuted. Nevertheless, according to a police official, this type of directive was difficult to enforce because of entrenched discriminatory attitudes among police. Even though police may make an arrest, often neither the victim nor the government pursued prosecution.

More than 20 NGOs in Kathmandu worked on the problem of violence against women and on women's issues in general, and provided shelter, medical attention, counseling, and legal advocacy for the victims of violence.

Laws against rape provide for prison sentences of 10 to 15 years for the rape of a child under the age of 10, seven to 10 years' imprisonment for raping a child between 10 and 16 years old, and 5 to 7 years for the rape of a woman 16 or older. If the victim is handicapped, pregnant, or mentally retarded, an additional five years is added to the standard sentence. A 2003 Supreme Court order prohibits spousal rape. During 2004 and through September, 178 cases of rape and 26 cases of attempted rape were filed in the court, according to the women's police cell. A survey conducted by SAATHI, an antitrafficking NGO, found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the government arrested and convicted the perpetrator. According to SAATHI, police and the courts were quick to respond to rape cases.

The dowry tradition was strong in the Terai districts bordering India; however, the killing of brides because of defaults on or inadequacy of dowry payments was rare. More common was physical abuse of wives by husbands and in-laws seeking to obtain additional dowry, or to force the woman to leave so that the man might remarry.

Traditional beliefs about witchcraft generally involved elderly rural women and widows. Shamans or other local authority figures sometimes publicly beat and physically abused suspected witches as part of an exorcism ceremony. According to INSEC, there were 13 victims of witchcraft-related violence during the year. In 2003 the NHRC asked the government to develop a mechanism to prevent such abuses and to provide compensation to the abused. During the year the government awarded compensation to 13 victims of witchcraft-related violence that took place in 2003. The district administration office in the district where the violence occurred now handles all cases of witchcraft violence.

Trafficking in women remained a serious problem throughout the country, and large numbers of women were forced to work against their will as prostitutes in other countries (see section 5, Trafficking). Prostitution was illegal.

Although the law provides protections for women, including equal pay for equal work, the government had not taken significant action to implement those provisions, even in many state industries. Women faced systematic discrimination, particularly in rural areas, where religious and cultural traditions, lack of education, and ignorance of the law remained severe impediments to the exercise of basic rights, such as the right to vote or to hold property in their own names. Unmarried, widowed, and divorced women were able to inherit parental property.

In September the Supreme Court passed a verdict allowing all children whose father was unknown to have citizenship "until the father of the child is traced." However, the citizenship law still denies citizenship to the children of female citizens married to foreign spouses, even if those children were born in the country.

Also in September the Supreme Court declared unconstitutional a clause in the Birth and Death Record Act of 1976, which permitted only a male to record birth and death information in government offices. Women may now register birth and death information. The court ordered the government to enact a law abolishing the practice of *chhaupadi*, which required a woman to stay in a cow-shed for four days during her menstrual periods.

In November the Supreme Court ruled that, unlike in previous years, women did not need permission from their husband or parents to get a passport.

In December the Supreme Court ruled that women no longer needed to get the permission of their husband, son, or parents if they wish to sell or hand over ownership of property.

Many other discriminatory laws remain. According to legal experts, there were more than 50 laws that discriminated against women. For example, the law on property rights favors men in its provisions for land tenancy and the division of family property. The Foreign Employment Act requires women to get permission from the government and their guardian before seeking work through a foreign employment agency. The law encourages bigamy by allowing men to remarry without divorcing their first wife if she becomes crippled or infertile.

According to the 2001 census, the most recent statistics available, the female literacy rate was 43 percent, compared with 65 percent for men. NGOs focused on integrating women into active civil society and the economy. There were also a grow-

ing number of women's advocacy groups. Most political parties have women's groups that advocate for women's rights and bring women's issues before the party leadership.

*Children.*—The government is committed to the welfare and education of children, but implementation of laws and programs has been uneven, in part due to violence resulting from the ongoing insurgency. Education is not compulsory. However, government policy was to provide free primary education for all children between the ages of 6 and 12 years. The quality of education provided was inadequate, and many families could not afford school supplies and clothing. Schools did not exist in all areas of the country. Approximately 60 percent of the children who worked also attended school. However, approximately 70 to 75 percent of boys who work go to school, compared with only 50 to 60 percent of the girls who work. Human rights groups reported that girls attended secondary schools at a rate half that of boys. In 2003 the Department of Education issued a report finding that one-quarter of elementary school-aged girls remained deprived of basic education. The government claims that 92 percent of school-age children are attending public schools, not attending students at madrassas or non-registered schools.

The government provided basic health care free to children and adults, but government clinics were poorly equipped and few in number, and serious deficiencies remained.

Violence against children was rarely prosecuted, and abuse primarily manifested itself in trafficking of children. Forced prostitution and trafficking in young girls remained serious problems (see section 5, Trafficking).

Societal attitudes in parts of the country viewed a female child as a commodity to be bartered in marriage, or as a burden. In September to counter this notion, the government launched a program in Kalikot District to provide rice to any family that had recently given birth to a girl. Some persons considered marrying a girl before menarche an honorable, sacred act that increased one's chances of a better afterlife. As a result, although the law prohibits marriage for girls before the age of 18, child brides were common. Social, economic and religious values promote the practice of child brides. According to the Ministry of Health, girls' average age of marriage was 16 years of age, and boys' average age was 18. An age difference in marriage often was cited as one cause of domestic violence.

Maoists abducted teenagers and some younger children to serve as porters, runners, cooks, and armed cadre. Most children abducted from their schools for political education sessions were returned home within a few days, but some remained with the Maoists, either voluntarily or under compulsion. The Maoists denied recruiting children. In September the RNA estimated that 30 percent of Maoist guerillas were under the age of 18, and some were as young as 10 (see section 1.g.).

There were reports of children held in jail or in custody as suspected Maoists. The NGO Children Workers in Nepal (CWIN) reported that several months ago a 17-year-old girl had been abducted by the Maoists for 2 months and had her toe cut off. Her abduction ended when police arrested her and subsequently tortured her as a suspected Maoist. She was released by the police and stayed at a CWIN transit center.

There were six cases of female infanticide reported during the country's fiscal year, but the problem was not thought to be widespread.

Internal displacement due to the conflict, including of children, continued to be a problem, with estimates of the number displaced ranging widely. The International Labor Organization estimated that 10 to 15 thousand children were displaced during the year. As IDPs, children faced inadequate access to food, shelter, and health care, and had limited access to education.

A number of effective NGOs work in the field of children's issues, including Save the Children, the Sahara Group, Child Workers in Nepal Concerned Centre, CVICT, Ray of Hope, Terre des Hommes, Maiti Nepal, ABC Nepal, the Forum for Women, Law and Development, Rugmark, and World Education.

*Trafficking in Persons.*—The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and children remained a serious problem. During the year enforcement of antitrafficking statutes improved but remained sporadic. The law prohibits selling persons in the country or abroad.

The government has a national plan of action to combat trafficking and a National Rapporteur on Trafficking. However, political instability and security problems associated with the Maoist insurgency hindered the government's antitrafficking efforts.

Nepal was a source country for trafficking. Young women were the most common targets. Trafficking of boys rarely was reported, but girls as young as nine years

of age were trafficked. While the vast majority of trafficking was of women and girls for sexual exploitation, women and girls sometimes were trafficked for domestic service, manual or semi-skilled bonded labor, work in circuses, or other purposes. Most women and girls trafficked from the country went to India, lured by promises of good jobs or marriage. Internal trafficking for forced labor and sexual exploitation also occurred. Save the Children and Action Aid conducted research linking conflict, migration, and employment. The studies indicated that internal trafficking may be on the rise due to the insurgency, as rural women and children left their homes to seek both employment and security in urban centers.

According to the 2004 annual report of the Attorney General's office, 133 trafficking cases were filed in district attorneys' offices across the country. At the end of 2004, of the 133 cases, 32 resulted in full or partial convictions, 18 in acquittal, and 83 remained open. At year's end the Attorney General's office had not released its latest report.

Local NGOs combating trafficking estimated that 25 thousand to 200 thousand women and girls were lured or abducted annually into India and subsequently forced into prostitution; however, these numbers were not consistent, and NGOs continued to seek better estimates. Women were also trafficked to Saudi Arabia, Malaysia, Hong Kong, the United Arab Emirates, and other gulf states for sexual exploitation and domestic servitude. In 2003 the government lifted a ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the gulf. The government did not monitor adequately labor recruiting agencies to ensure that workers going abroad attended pre-migration orientation sessions, or that labor contracts were honored after workers' arrivals in receiving countries.

Hundreds of women and girls returned voluntarily or were rescued and repatriated to the country annually after having worked as commercial sex workers in India. Most were destitute and, according to estimates by local NGOs Maiti Nepal and ABC Nepal, 50 percent were HIV-positive when they returned. Maiti Nepal, the country's largest antitrafficking NGO, operated a hospice for HIV positive trafficking victims and their children.

Traffickers were usually from the country or India, and had links to brothels in India. In some cases parents or relatives sold women and young girls into sexual slavery. NGOs' unverified estimates suggested that 50 percent of victims were lured to India with the promise of good jobs and marriage, 40 percent were sold by a family member, and 10 percent were kidnapped. During the year the government identified 26 high-priority districts as source areas of trafficking and established antitrafficking task forces in nine districts of the country. Women and youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

While the government lacked both the resources and institutional capability to address effectively its trafficking problem, the government established a National Task Force at the Ministry of Women, Children and Social Welfare (MOWCSW) with personnel assigned to coordinate the response. There were programs in place to train police, and the MOWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. Police women's cells in 18 districts worked with NGOs to provide referral services to victims of trafficking and domestic violence.

The government provided limited funding to NGOs to give assistance to victims with rehabilitation, medical care, and legal services. The MOWCSW sponsored job and skill training programs in several poor districts with high rates of commercial sex workers who are sent to India. The government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The government, together with NGOs and international organizations, implemented local, regional, and national public awareness campaigns on trafficking in persons; however, the government failed to budget for adequate police training and resources, and the courts were overburdened. Government welfare agencies worked with NGOs to deliver public outreach programs and assistance to trafficking victims.

Planete Enfants, an EU-funded NGO, collaborated with the government on campaigns to educate girls about trafficking in 19 districts. UNIFEM, in coordination with the government, conducted campaigns to target potential victims and deter traffickers by advertising the potential 20-year punishment for trafficking. These efforts resulted in the interception and rescue of potential victims and in eroding the stigma associated with being a trafficking victim.

Cultural attitudes toward returned victims of trafficking were often negative. There were more than 50 NGOs combating trafficking, several of which had rehabilitation and skills training programs for trafficking victims. With the government's endorsement, many NGOs created outreach campaigns using leaflets, comic books, films, speaker programs, and skits to convey antitrafficking messages and education

in urban, cross-border, and rural areas. Maiti Nepal, which stationed rehabilitated trafficking victims as guards with government officials to intercept trafficking victims at border crossings, reported that some of their female border guards had been attacked because of their work.

*Persons with Disabilities.*—The law does not prohibit discrimination against persons with physical and mental disabilities, and there was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services. The law mandates access to buildings, transportation, employment, education, and other state services, but these provisions generally were not enforced. Despite government funding for special education programs, the government did not implement effectively or enforce laws regarding persons with disabilities. The MOWCSW is responsible for the protection of those with disabilities. Some NGOs working with persons with disabilities received funding from the government; however, most persons with physical or mental disabilities relied almost exclusively on family members for assistance.

*National/Racial/Ethnic Minorities.*—The law provides that each community shall have the right “to preserve and promote its language, script, and culture,” and that each community has the right to operate schools at the primary level in its native language. In practice the government generally upheld these provisions.

There were more than 75 ethnic groups that spoke 50 different languages. In remote areas school lessons and radio broadcasts often were in the local language. In urban areas education was almost exclusively offered in Nepali or English.

Discrimination against lower castes was especially common in rural areas in the western part of the country, even though the government outlawed the public shunning of dalits and made an effort to protect the rights of the disadvantaged castes. On January 27, the National Dalit Commission relaunched a nationwide campaign to eradicate untouchability.

Economic, social, and educational advancement tended to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated, urban-oriented castes continued to dominate politics and senior administrative and military positions, and to control a disproportionate share of natural resources.

Caste-based discrimination, including barring access to temples, is illegal. However, dalits were occasionally barred from entering temples. Progress in reducing discrimination was more successful in urban areas. On August 17, a Maoist raped a dalit woman and harassed three others in Saptari District. After word spread of the incident, INSEC reported that the local Maoist leadership apologized to the victims, and killed the rapist (see section 1.a.).

*Other Societal Abuses and Discrimination.*—The country does not have any laws that specifically criminalize homosexuality; however, government authorities, especially police, sometimes harassed and abused homosexuals. For example, on April 13, police attacked 18 metis (a traditional term for males who dress and identify as women) who were walking toward a festival in Kathmandu, according to the Blue Diamond Society, a Nepali NGO that works to protect against discrimination against the lesbian, gay, bisexual, and transgendered communities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the freedom to establish and join unions and associations, and these rights were protected in practice. The law permitted the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions were affiliated with political parties. On July 14, the government promulgated the Civil Service Act, which prohibits government employees from forming an umbrella employee’s organization; however, certain government employees may form organizations on the basis of professional affiliation, such as a lawyers’ or medical doctors’ association.

Union participation in the formal sector accounted for approximately 10 percent of the formal work force. The Labor Act of 1992 and the Trade Union Act of 1992 formulated enabling regulations; however, the government had not fully implemented these acts. The Trade Union Act defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits employers from discriminating against trade union members or organizers.

The government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

*b. The Right to Organize and Bargain Collectively.*—The Labor Act provides for collective bargaining, although the organizational structures to implement the act's provisions had not been established. The government allowed unions to operate freely and without interference. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector; however, in general labor remained widely unable to use collective bargaining effectively due to legal obstacles to striking and inexperience.

The law provides the right to strike except by employees in essential services, and workers exercised this right in practice. The law empowers the government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affected the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). The Department of Labor enforced laws against forced labor in the small formal sector, but remained unable to enforce the law outside that sector.

Enforcement of the Kamaiya Prohibition Act by the government was uneven, and social integration of the Kamaiyas—bonded laborers—was difficult. By 2004, according to the ILO, 12,019 Kamaiyas had received land, 7,149 families each had received approximately \$143 (10 thousand NRS) for building homes, and about 3 thousand had received timber to build houses. The government set up temporary camps for approximately 14 thousand other Kamaiyas still awaiting settlement. As of September, according to the ILO, a remaining 14 thousand persons who re-registered as bonded laborers in 2004 had not received land and money, and were forced to take land in several far-western districts.

The Maoists regularly used forced labor to build roads and carry out other projects. Forced labor by children occurred during the year (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law stipulates that children shall not be employed in factories, mines, or 60 other categories of hazardous work, and limits children between the ages of 14 and 16 years to a 36-hour workweek (6 hours a day and 6 days a week, between 6 a.m. and 6 p.m.). The Child Labor Act applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines.

Child labor is a significant problem, particularly in the large informal sector, which included such businesses as portering, rag picking, and rock breaking. Resources devoted to enforcement were limited, and NGOs estimated that 2.6 million children, most of them girls, participated in the labor force. Of that number, 1.7 million children worked full time. The agricultural sector accounted for most child laborers, an estimated 95 percent.

The law establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture, and it mandates acceptable working conditions for children. Employers must maintain records of all laborers between the years of 14 and 16. The law also established specific penalties for those who unlawfully employ children. However, the necessary implementing regulations have not been passed. In 2003 the government established the minimum wage for children aged 14–16 at approximately \$22 (1,558 NRS) per month, with additional allowances of roughly \$5 (360 NRS) per month for food and other benefits. Roughly 60 percent of children who worked also attended school.

There were credible reports that the Maoists forcibly recruited children, including girls, as soldiers, human shields, runners, and messengers (see section 5).

The Ministry of Labor, responsible for enforcing child labor laws and practices, had a mixed enforcement record. According to the ministry, the number of labor inspectors declined from 14 to 10 in 2004. However, these inspectors were able to achieve their annual goal of 500 inspections (out of 10 thousand registered companies) to ensure that no child labor was present. The ministry reported that no children under the age of 14 were found working in the factories inspected. In 2004 the government conducted four public awareness programs in various regions of the country to raise public sensitivity to the problem of child labor.

*e. Acceptable Conditions of Work.*—In 2003 the government raised the minimum monthly wage for unskilled labor to approximately \$27 (1,894 NRS). The law also defined monthly minimum wages for semi-skilled labor at approximately \$28 (1,944 NRS).

NRS), skilled labor at approximately \$29 (2,054 NRS), and highly skilled labor at approximately \$32 (2,244 NRS). Additional allowances for food and other benefits totaled just over \$7 (500 NRS) per month. Wages in the unorganized service sector and in agriculture often were as much as 50 percent lower. The law calls for a 48-hour workweek, with one day off per week, and limits overtime to 20 hours per week. None of these minimum wages was sufficient to provide a decent standard of living for a worker and family.

The government set occupational health and safety standards, and the law established other benefits such as a provident fund and maternity benefits. Implementation of the Labor Act was slow, as the government had not created the necessary regulatory or administrative structures to enforce its provisions. Workers did not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal.

## PAKISTAN

Pakistan is a federal republic with a population of approximately 163 million. The head of state is President and Chief of Army Staff Pervez Musharraf who assumed power after overthrowing the civilian government in 1999. The head of government is Prime Minister Shaukat Aziz, whom the national assembly elected over opposition parties' objections in 2004. Domestic and international observers found the 2002 national assembly elections, the most recent national elections, deeply flawed. The civilian authorities maintained control of the security forces; however, there were instances when local police acted independently of government authority.

The government's human rights record was poor, and serious problems remained. The following human rights problems were reported:

- restrictions on citizens' right to change their government
- extrajudicial killings, torture, and rape
- poor prison conditions, arbitrary arrest, and lengthy pretrial detention
- violations of due process and privacy rights
- lack of judicial independence
- harassment, intimidation, and arrest of journalists
- limits on freedom of association, religion, and movement
- imprisonment of political leaders
- corruption
- legal and societal discrimination against women
- child abuse
- trafficking in women and children, and child prostitution
- discrimination against persons with disabilities
- indentured, bonded, and child labor
- restriction of worker rights

The government took significant steps to combat trafficking in persons. Its Anti-Trafficking Unit (ATU) was fully functional and resulted in increased arrests and prosecutions of human traffickers. Cooperative efforts between the military, ATU, and international organizations prevented any increase in human trafficking resulting from the October 8 earthquake. Training efforts within the security forces greatly improved treatment of trafficking victims.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces extrajudicially killed individuals associated with criminal and political groups in staged encounters and during abuse in custody. Human rights monitors reported 189 instances of encounter killings.

Police said that many of these deaths occurred when suspects attempted to escape, resisted arrest, or committed suicide; however, family members and the press said that many of these deaths were staged. For example, on January 25, Abu Bakar Panwhar died in police custody at the police station in Mirpurkhas, Sindh, after being detained on theft charges. Following protests by the Sindh People's Students Federation and the Pakistan People's Party Parliamentarians (PPPP), the po-

lice filed murder charges against officer Mohammad Rafiq Siyal, senior inspector Khamiso Khan, assistant senior inspector Ghulam Shabbir Dasti, and police constable Mohammad Aslam. An investigation continued at year's end.

On March 5, Samiullah Kalhoro, the vice chairman of the *Jeay Sindh Muttahida Mahaz*, died after sustaining serious injuries from torture he received while in police custody in Hala. Police maintained Kalhoro was never detained. There was no investigation at year's end.

On April 25, Sufi Muhammad Aslam died in police custody after being arrested in connection with a murder case in which Aslam was guarantor of the suspect's bail at his shop in Lakhodare village on the outskirts of Lahore. According to Aslam's son, when Aslam demanded to see the arrest warrant, police beat him. Aslam lost consciousness en route to the police station and was taken to Ali Medical Center and later to Shalimar hospital, where police claimed Ali died of natural causes. Despite protests from relatives, they brought no charges against police.

On May 20, police in Madni Bahauddin, Punjab, arrested local Islamic cleric Naeem Mehmood Qadri. The following day police informed his family that a truck crushed and killed Qadri; however, following a September 8th court-ordered exhumation of his body, authorities confirmed that Qadri was beaten. At year's end, a judge charged the five police constables with murder.

On September 26, Ghulam Raza died in police custody at the Thari Mirwah police station after being detained by police in Khairpur, Punjab. Police detained Raza on charges of stealing a motorcycle, but they failed to file proper arrest documents. While the police claimed Raza committed suicide, relatives asserted that police killed Raza. At year's end authorities arrested assistant senior inspector Ghulam Abdul Ghafoor in connection with the case.

A government inquiry into the 2004 deaths of three Pakistan People's Party (PPP) workers in Attock concluded that there was no evidence of police or district government involvement.

There were no developments in the 2004 death-in-custody cases of Nazakat Khan and Syed Qutbuddin Shah or the 2004 killing of Tabassum Javed Kalyar.

The government frequently investigated police officials for extrajudicial killings; however, failure to discipline and prosecute consistently and lengthy trial delays contributed to a culture of impunity.

Continued clashes between security forces and terrorists in the Federally Administered Tribal Areas (FATA) resulted in nine civilian deaths during the year.

On March 17, in Dera Bugti, Balochistan, Frontier Corps personnel shelled the militant leader Nawab Akbar Khan Bugti's residential compound, killing 67 civilians and wounding 55.

On December 31, in Pikal, Balochistan, security forces killed 10 and injured 43 civilians during a helicopter assault on militants linked with Nawab Akbar Khan Bugti. Related security force shelling of militant positions in the town of Dera Bugti, Balochistan, on December 30 and 31 resulted in 38 injured civilians. Baloch nationalists claimed that a security force assault on militants linked to Nawab Khai Bax Marri in Kohlu District also resulted in civilian deaths and injuries, but no figures were available.

There were reports of politically motivated killings perpetrated by political factions. During local elections held on August 18 and 25, arguments between competing candidate groups resulted in violent confrontations at polling places nationwide, leaving at least 55 dead and hundreds injured (see section 3).

Politically motivated killings occurred during the year. For example, on January 2, unknown assailants killed former parliamentarian Syed Manzoor Hussain Shahand and his three aides in an ambush on the Grand Trunk Road near Theekarian Morr in Punjab. Police blamed a long standing feud with political rivals. On January 7, unknown assailants on a motorcycle in Karachi killed Baloch nationalist leader Anwar Bhajjan. On March 20, unknown assailants shot and killed Ahsan Aziz, a Pakistan Muslim League (PML) activist, in a Karachi park. On April 11, in Karachi, unknown motorcycle gunmen killed Shorab Goth, a Muttahida Quami Movement (MQM) activist.

Attacks on houses of worship and religious gatherings linked to sectarian, religious extremist, and terrorist groups resulted in the deaths of nearly 75 persons (see section 2.c.). On March 19, a bomb explosion in Jhal Magsi district at the shrine to Pir Syed Rakheel Shah during Shi'a and Brailvi ceremonies commemorating the saint's death killed more than 40 persons and wounded more than 100. The government blamed the attack on the terrorist group Lashkar-e-Janghvi. On May 27, a suicide bomber attacked the Bari Imam Shrine outside Islamabad during Shi'a and Brailvi ceremonies, killing 20 and wounding over 100 on the anniversary of the saint's death. On May 30, a suicide bomber and 3 armed accomplices, allegedly affiliated with Lashkar-e-Janghvi, attacked a Shi'a mosque in Karachi, killing 5 and

injuring at least 30. Prompted by the mosque attack, rioters took to the streets in Karachi. The mob killed six persons when they burned a Kentucky Fried Chicken restaurant. On September 22, members of Lashkar-e-Jangvi detonated 2 simultaneous bombs in Lahore that killed 6 persons and wounded 26 others.

On June 4, a Karachi antiterrorism court convicted Gul Hasan of murder and sentenced him to death for the May suicide bombing of a Shi'a mosque. There were no developments in any of the cases of 2004 attacks on houses of worship.

Religious extremist organizations killed and attempted to kill government officials and Islamic religious figures from opposing sects (see section 2.c.).

The trial of members of the Jandullah group implicated in attacks on foreigners and government officials in 2004 continued at year's end. There were no developments in the other 2004 cases of murder of government officials and religious figures or terrorist attacks on foreign targets.

Foreign terrorists and their local tribal allies attacked and killed military personnel, government officials, and progovernment tribal chiefs in the FATA. For example, on January 22, unidentified gunmen shot and killed Mohammad Ibrahim Khan Mehsud, senior vice president of the tribal peace committee in Makeen, South Waziristan, at his home in Tauda Cheena. On May 29, militants killed former federal minister and progovernment tribal leader Faridullah Khan, his cousin, and a bodyguard after attacking his vehicle in South Waziristan. On July 22, unidentified gunmen shot and killed Mir Zalam Khan, the progovernment chief of the Ahmadzai Wazir tribe, after attacking his vehicle in Wana, South Waziristan. His two brothers and a nephew also died in the attack.

Honor killings continued to be a problem, with women as the principal victims. Local human rights organizations documented 1,211 cases during the year, and many more likely went unreported (see section 5).

January 18 shelling across the line of control in Kashmir, the country's border with India, did not result in any casualties.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, police and security forces held prisoners incommunicado and refused to provide information on their whereabouts, particularly in terrorism and national security cases. For example, on June 4, intelligence agencies in Swat allegedly detained sisters Arifa Baloch and Saba Baloch on suspicion of receiving terrorist training from their uncle Gul Hasan, a member of Lashkar-e-Jangvi. On August 22, the Interior Ministry denied any knowledge of their whereabouts to the Peshawar High Court; however, on September 20, Gul Hamdana, the sisters' relative who had been missing for three months reappeared, claiming that intelligence agencies held her incommunicado in the same location as the sisters, who remained under detention. In January security agencies released a Dutch national detained at Lahore University in 2004. There was no new information available on a British national who disappeared at the same time as the Dutch national.

The PPP claimed that in Sindh members of the ruling PML kidnapped candidates of the PPP-supported Awam Dost panel to prevent them from filing nomination papers for local elections. For example in Chachro, Tharparkar District, PML supporters allegedly kidnapped Moto Meghwar and Gyan Chand Meghwar, Awam Dost candidates for mayor and deputy mayor of Union Council Sarangiar along with their supporters. The PML denied that such kidnappings occurred, and the Election Commission of Pakistan (ECP) claimed that its investigation yielded no evidence to support such charges. International observers, however, found that the charges likely were credible.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other cruel, inhuman, or degrading treatment; however, security forces tortured and abused persons. Under provisions of the Anti-Terrorist Act, coerced confessions are admissible in special courts, although police did not use this provision to obtain convictions.

Security force personnel continued to torture persons in custody throughout the country. Human rights organizations reported that methods included beating; burning with cigarettes, whipping the soles of the feet, prolonged isolation, electric shock, denial of food or sleep, hanging upside down, and forced spreading of the legs with bar fetters. Security force personnel reportedly raped women and children during interrogations. The nongovernmental organization (NGO) Lawyers for Human Rights and Legal Aid recorded 1,356 cases of torture during the year. Torture occasionally resulted in death or serious injury (see section 1.a.). In April Shabbir Hussain, Zafar Abass, and Muhammad Sadiq claimed that police detained and tortured them on false charges of theft. During their detention in Hafizabad, Punjab, police allegedly beat them in front of their accuser, forced them to drink their own



urine and eat mud, and hung them upside down. The Lahore High Court ordered the police to register cases against the officer involved.

On June 23, police in Vehari severely beat and stitched together the lips of prisoner Mohammad Hussain after he argued with a police officer. At year's end authorities suspended seven policemen for their involvement.

The United Nation's implicated Pakistani peacekeepers assigned to the United Nations Mission in the Congo (MONUC) in the organization's sexual abuse scandal. The government took steps to investigate and punish those reportedly involved. In March Human Rights Watch (HRW) reported that in August 2004 domestic and foreign security forces secretly abducted and subsequently tortured two foreign nationals, brothers Zain Afzal and Kashan Afzal, to extract confessions of involvement in terrorist activities. HRW reported that authorities released the brothers on April 22 without charge.

There were no developments in any 2004 cases.

The Hudood Ordinances provide for harsh Koranic punishments for violations of *Shari'a* (Islamic law), including death by stoning and amputation. Authorities did not use such punishments during the year, as they required a high standard of evidence.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards and were extremely poor, except those for wealthy or influential prisoners. Overcrowding was widespread. According to the Human Rights Commission of Pakistan (HRCP,) there were 89,370 prisoners occupying 87 jails originally built to hold a maximum of 36,075 persons.

Inadequate food in prisons led to chronic malnutrition for those unable to supplement their diet with help from family or friends. Access to medical care was a problem. Foreign prisoners often remained in prison long after their sentences were completed because there was no one to pay for deportation to their home country.

Authorities routinely shackled prisoners. The shackles were tight, heavy, and painful, and reportedly led to gangrene and amputation in several cases.

Police held female detainees and prisoners separately from male detainees and prisoners. Child offenders were generally kept in the same prisons as adults, albeit in separate barracks. Police often did not segregate detainees from convicted criminals. Mentally ill prisoners usually lacked adequate care and were not segregated from the general prison population (see section 5).

There were reports of prison riots. On May 12, inmates took control of the Sukkur central jail, holding the assistant superintendent and eight security guards hostage. The inmates were protesting prison guards' alleged theft of valuables. Police called in to quell the uprising fired on the inmates, killing 1 prisoner and injuring 26. The Punjab unspector general of prisons ordered a probe into the incident. On June 24, inmates at the Sargodha jail took two assistant superintendents and four warders hostage to protest mistreatment. In the ensuing clash, nine inmates and one guard suffered injuries. One of the inmates later died from injuries sustained during the riot.

Authorities established special women's police stations with all female staff in response to complaints of custodial abuse of women, including rape. The government's National Commission on the Status of Women claimed the stations did not function effectively in large part due to a lack of resources. Court orders and regulations prohibit male police from interacting with female suspects, but male police often detained and interrogated women at regular stations. According to women's rights NGOs, there were approximately 3,389 women in jail nationwide at year's end.

The Supreme Court indefinitely suspended a December 2004 Lahore High Court ruling that struck down the Juvenile Justice System Ordinance as unconstitutional. The ordinance is a separate procedural code for juveniles that provides numerous protections for juvenile offenders not found in the normal penal code. Authorities subjected children in prison to the same harsh conditions, judicial delay, and mistreatment as the adult population. Local NGOs estimated that 3,430 children were in prison at year's end. Child offenders could alternatively be sent to one of two residential reform schools in Karachi and Bahawalpur until they reached the age of majority. Abuse and torture reportedly also occurred at these facilities. Nutrition and education were inadequate. Family members were forced to pay bribes to visit children or bring them food. Facility staff reportedly trafficked drugs to children incarcerated in these institutions.

Landlords in Sindh and tribes in rural areas operated illegal private jails.

The government permitted visits to prisoners and detainees by human rights monitors, family members, and lawyers with some restrictions (see section 1.d.). Visits by local human rights monitors occurred during the year; however, the government denied the International Committee of the Red Cross (ICRC) access to alleged terrorist detainees.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the authorities did not always comply with the law.

*Role of the Police and Security Apparatus.*—Police have primary internal security responsibilities. Under the Police Order (Second Amendment) Ordinance promulgated on July 23, control of the police falls under elected local district chief executives known as *nazims*. Paramilitary forces such as the Rangers, the Frontier Corps and the Frontier Constabulary, and the Islamabad Capital Territory Police fall under the Ministry of the Interior. Provincial governments control the paramilitary forces when they assist in law and order operations. During some religious holidays, the government deployed the regular army in sensitive areas to help maintain public order.

Police force effectiveness varied greatly by district, ranging from reasonably good to completely ineffective. Some members of the police force committed numerous serious human rights abuses. Failure to punish abuses, however, created a climate of impunity. Police and prison officials frequently used the threat of abuse to extort money from prisoners and their families. The inspector general, district police officer, district nazim, provincial interior or chief ministers, federal interior or prime minister, or the courts can order internal investigations into abuses and order administrative sanctions. Executive branch and police officials can recommend and the courts can order criminal prosecution. Police failed in some instances to protect members of religious minorities—particularly Christians, Ahmadis, and Shi'as—from societal attacks (see sections 2.c. and 5).

Corruption within the police was rampant. Police charged fees to register genuine complaints and accepted money for registering false complaints. Bribes to avoid charges were commonplace. Persons paid police to humiliate their opponents and avenge their personal grievances. Corruption was most prominent amongst station house officers (SHO), some of whom reportedly operated arrest for ransom operations and established unsanctioned stations to increase illicit revenue collection.

The government initiated regular training and retraining of police at all levels, both in technical skills and human rights. President Musharraf reissued and amended the 2002 Police Order on July 23, which transfers oversight responsibility of police from provinces to districts and establishes the district-level chief executive as principal supervisor. The order also calls for the immediate establishment of local oversight bodies that have been stalled since 2002. The government argued that these reforms would make police more responsive to the local community. Opponents charged that they would politicize the police force.

*Arrest and Detention.*—A First Information Report (FIR) is the legal basis for all arrests. Police may issue FIRs provided complainants offer reasonable proof that a crime was committed. A FIR allows police to detain a named suspect for 24 hours, after which only a magistrate can order detention for an additional 14 days, and then only if police show such detention is material to the investigation. In practice the authorities did not fully observe these limits on detention. FIRs were frequently issued without supporting evidence as part of harassment or intimidation. Police routinely did not seek magistrate approval for investigative detention and often held detainees without charge until a court challenged them. Incommunicado detention occurred (see section 1.c.). When asked, magistrates usually approved investigative detention without reference to its necessity. In cases of insufficient evidence, police and magistrates colluded to continue detention beyond the 14-day period provided in the law through the issuance of new FIRs. The police sometimes detained individuals arbitrarily without charge or on false charges to extort payment for their release. Some women continued to be detained arbitrarily and were sexually abused (see sections 1.c. and 5). Police also detained relatives of wanted criminals to compel suspects to surrender (see section 1.f.). Courts appointed attorneys for indigents only in capital cases. In some cases persons had to pay bribes to see a prisoner. Foreign diplomats could meet with prisoners when they appear in court and may meet with citizens of their countries in prison visits. Local human rights activists reported few restrictions to their access to prisons.

The district coordinating officer may order preventive detention for up to 90 days; however, human rights monitors reported instances in which prisoners were held in preventive detention for up to 6 months. Human rights organizations charged that a number of individuals alleged to be affiliated with terrorist organizations were held in preventive detention indefinitely. A magistrate may permit continued detention for up to 14 days if necessary to complete the investigation. In corruption cases, the National Accountability Board (NAB) may hold suspects indefinitely, provided judicial concurrence is granted every 15 days (see section 1.e.).

The law stipulates that detainees must be brought to trial within 30 days of their arrest. Under both the Hudood and standard criminal codes, there were bailable and

non-bailable offenses. Bail pending trial is required for bailable offenses and permitted at a court's discretion for non-bailable offenses with sentences of less than 10 years. In practice judges denied bail at the request of police, the community, or on payment of bribes. In many cases trials did not start until six months after the filing of charges, and in some cases individuals remained in pretrial detention for periods longer than the maximum sentence for the crime for which they were charged. Human rights NGOs estimated that 45 to 50 percent of the prison population was awaiting trial.

As in previous years the government used preventive detention, mass arrests, and excessive force to quell or prevent protests, political rallies, or civil unrest (see section 2.b.).

Several dozen Mohajir Quami Movement-Haqiqi (MQM-H) activists, arrested between 1999 and 2003, remained in custody at year's end, some without charge.

According to human rights monitors, 33 percent of the female prison population was awaiting trial on adultery related offenses under the Hudood Ordinances. Most of these cases were filed without supporting evidence, trials often took years, and bail was routinely denied.

Special rules apply to cases brought by the NAB or before antiterrorist courts. Suspects in NAB cases may be detained for 15 days without charge (renewable with judicial concurrence) and, prior to being charged, are not allowed access to counsel. Accountability courts may not grant bail; the NAB chairman has sole power to decide if and when to release detainees. Antiterrorist courts do not grant bail if the court has reasonable grounds to believe that the accused is guilty. Security forces may without reference to the courts restrict the activities of terrorist suspects, seize their assets, and detain them for up to a year without charges.

On June 9, the government assigned a security detail to Mukhtiar Mai (aka Mukhtaran Bibi), at her request. Ms. Mukhtiar was concerned for her safety following the court ordered release of five men convicted in her 2002 gang rape that a village council had ordered because of an alleged infraction committed by her brother. Human rights groups claimed that when the government learned Ms. Mukhtiar wished to travel abroad to speak publicly of her experience, the protection detail controlled her movements and communication, such that she was under virtual house arrest. Ms. Mukhtiar was temporarily placed on the Exit Control List (ECL), which barred her from leaving the country. By year's end the government removed her name from the ECL, allowing travel outside of the country (see sections 1.e., 1.f., 2.a., 2.d., and 5).

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, in practice the judiciary remained subject to executive branch influence at all levels. Lower courts remained corrupt, inefficient, and subject to pressure from prominent religious and political figures. The politicized nature of judicial promotions enhanced the government's control over the court system. Unfulfilled judge-ships and inefficient court procedures resulted in severe backlogs at both trial and appellate levels. In nonpolitical cases, the high courts and Supreme Court were generally considered credible.

There are several court systems with overlapping and sometimes competing jurisdictions: criminal, civil and personal status, terrorism, commercial, family; and military.

*Trial Procedures.*—The civil, criminal, and family court systems provide for an open trial, the presumption of innocence, cross-examination by an attorney, and appeal of sentences. There are no jury trials. Due to the limited number of judges, heavy backlog of cases, lengthy court procedures, and political pressures, cases routinely took years, and defendants had to make frequent court appearances. Cases start over when an attorney changes.

The Anti-Terrorist Act allows the government to use special streamlined courts to try violent crimes, terrorist activities, acts or speech designed to foment religious hatred, and crimes against the state. Cases brought before these courts are to be decided within seven working days, but judges are free to extend the period as required. Under normal procedures, the high and supreme courts hear appeals from these courts. Human rights activists have criticized this expedited parallel system, charging it is more vulnerable to political manipulation.

Special accountability courts try corruption cases (see section 1.d.), including defaults on government loans by wealthy debtors, brought by the NAB. The NAB has not targeted genuine business failures or small defaulters. Accountability courts are expected to try cases within 30 days. In accountability cases, there is a presumption of guilt.

Despite government claims that NAB cases pursued independently of an individual's political affiliation, opposition politicians were more likely to be prosecuted (see section 1.d.). The NAB prosecuted no serving members of the military or judiciary.

At the trial level, ordinary criminal courts hear cases involving violations of the Hudood ordinances, which criminalize nonmarital rape (see section 5), extramarital sex, gambling, alcohol, and property offenses. The Hudood ordinances set strict standards of evidence, which discriminate between men and women and Muslims and non-Muslims, for cases in which Koranic punishments are to be applied (see sections 1.c. and 5). For Hudood cases involving the lesser secular penalties, different weight is given to male and female testimony in matters involving financial obligations or future commitments.

The Supreme Court's March 14 ruling in the Mukhtiar Bibi gang rape case refined appellate proceedings in Hudood cases. The law terms the Federal Shariat Court the court of first appeal in all Hudood cases that result in a sentence of more than two years. The Supreme Court, however, determined that in cases where a provincial high court decides to hear an appeal in a Hudood case, even in error, the Federal Shariat Court lacks authority to review the provincial high court's decision. The Shari'a bench of the Supreme Court is the final court of appeal for federal shariat court cases. The March 14 ruling, however, allows the full Supreme Court to bypass the Shari'a bench and assume jurisdiction in such appellate cases in its own right. The Federal Shariat Court may overturn legislation that it judges to be inconsistent with Islamic tenants, but such cases are appealed to the Shari'a bench of the Supreme Court and under the new rules may ultimately be finally heard by the full Supreme Court.

The law allows for the victim or his/her family to pardon criminal defendants in exchange for monetary restitution (*diyat*) or physical restitution (*qisas*). While *diyat* was invoked, particularly in the North West Frontier Province (NWFP) and in honor cases in Sindh, *qisas* have never been used.

The FATA have a separate legal system, the Frontier Crimes Regulation, which recognizes the doctrine of collective responsibility. Authorities are empowered to detain fellow members of a fugitive's tribe or to blockade a fugitive's village, pending his surrender or punishment by his own tribe. Tribal leaders are responsible for justice in the FATA. They conduct hearings according to Islamic law and tribal custom. The accused have no right to legal representation, bail, or appeal. The usual penalties consisted of fines. Federal civil servants assigned to tribal agencies oversee proceedings and may impose prison terms of up to 14 years.

Feudal landlords in Sindh and Punjab and tribal leaders in Pashtun and Baloch areas continued to hold jirgas in defiance of the established legal system. Such jirgas, particularly prevalent in rural areas, settled feuds and imposed tribal penalties on perceived wrongdoers that could include fines, imprisonment, or even the death sentence. In Pashtun areas, such jirgas were held under the outlines of the Pashtun Tribal Code. Under this code, a man, his family, and his tribe are obligated to take revenge for wrongs—either real or perceived—to redeem their honor. Frequently these disputes arose over women and land and often resulted in violence (see section 5). At year's end the Supreme Court was in the process of hearing an appeal of the death sentence imposed on five suspects in the 2002 gang rape of Mukhtiar Bibi in Meerwalla (see section 5).

*Political Prisoners.*—Some political groups claimed their members were marked for arrest based on their political affiliation (see sections 1.c. and 1.d.). Pakistan Muslim League—Nawaz (PML—N) leader Javed Hashmi remained in jail, having been convicted on sedition charges in 2004. Appeals were ongoing at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires court-issued search warrants for property but not persons, in most cases; however, police routinely ignored this requirement and at times stole items during searches. Police were seldom punished for illegal entry. In cases being pursued under the Anti-Terrorist Act, security forces were allowed to search and seize property related to the case without a warrant.

The government maintained several domestic intelligence services that monitored politicians, political activists, suspected terrorists, and suspected foreign intelligence agents. Despite a supreme court order, credible reports indicated that the authorities routinely used wiretaps and intercepted and opened mail without the requisite court approval.

In accordance with the Anti-Terrorist Act, the government banned the activities of and membership in several religious extremist and terrorist groups. However, many of the groups that the government banned still remained active.

While the government generally did not interfere with the right to marry, local officials on occasion assisted influential families to prevent marriages the families

opposed. The government also failed to prosecute vigorously cases in which families punished members (generally women) for marrying or seeking a divorce against the wishes of other family members. Upon conversion to Islam, women's marriages performed under the rites of their previous religion were considered dissolved, while the marriages of men who converted remained intact (see section 2.c.).

In some cases, authorities detained relatives to force a family member who was the recipient of an arrest warrant to surrender (see section 1.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and citizens generally were free to discuss public issues; however, journalists were intimidated and others practiced self-censorship.

There were numerous English and Urdu daily and weekly newspapers and magazines. All were independent. The Ministry of Information controls and manages the country's primary wire service, the Associated Press of Pakistan (APP), which is the official carrier of government and international news to the local media. The few small privately owned wire services practiced self-censorship. Foreign magazines and newspapers were available, and many maintained in-country correspondents who operated freely.

Newspapers were free to criticize the government, and most did. Condemnation of government policies and harsh criticism of political leaders and military operations were common. However, the government engaged in retribution against some papers critical of it or its policies. On May 21, the government banned federal government advertising in *Nawa-I-Waqt* and *The Nation*. Provincial and local governments were free to advertise in those papers and did. The ban was lifted on August 22. In June the Sindh provincial government banned provincial government advertising in papers run by the Dawn Group, owing to its critical coverage of a financial scandal involving the chief minister.

The government directly owned and controlled Pakistan Television and Radio Pakistan, the only free national electronic broadcasters. The semiprivate Shalimar Television Network, in which the government held majority ownership, expanded its broadcast range during the year. All three reflected government views in news coverage. Private cable and satellite channels Geo, ARY, Indus, and Khyber all broadcast domestic news coverage and were critical of the government. Cable and satellite television with numerous international news stations was generally affordable. Private radio stations existed in major cities, but their licenses prohibited news programming. Some channels evaded this restriction through talk shows, although they were careful to avoid most domestic political discussions. International radio broadcasts, including from the BBC and the Voice of America, were available.

The government arrested, harassed, and intimidated journalists during the year. For example, on July 18, military police detained European documentary filmmakers Leon Flamholz, David Flamholz, and Tahir Shah in Peshawar on charges of filming military installations. On August 3, following questioning, Pakistani officials deported all three, who denied filming any military installations and claimed that the military treated them inhumanely during their confinement, denying them contact with their embassies and families. On July 24, police detained Rashid Channa, a senior reporter with the *Star* in Karachi, ostensibly on the orders of the Sindh chief minister and held him for more than 12 hours. Channa had written several stories critical of the chief minister and his cabinet.

On March 25, a special antiterrorism Court in Quetta cleared journalist Khawar Mehdi Rizvi of all charges connected with his 2004 arrest. There were no other updates in 2004 cases.

Militant and extremist groups also killed, harassed, and physically assaulted journalists. For example, on January 19, a group of 30 Islamist youths attacked the offices of the Jang group of newspapers and the Geo TV offices in Karachi, damaging furniture, equipment, and vehicles and injuring a security guard. The youth were ostensibly angered by an interview with Israeli Deputy Prime Minister Shimon Peres published in *Jang*, as well as a Geo TV talk show on sexuality. On February 7, militants ambushed and killed journalists Amir Nawab Khan and Allah Noor Wazir near Wana, South Waziristan, and wounded journalist Anwar Shakir. On December 5, unknown assailants kidnapped journalist Hayatullah Khan from North Waziristan. Khan remained missing at year's end (see section 1.d.).

Unlike in previous years, the government did not directly or indirectly censor the media. Media outlets, however, continued to practice self-censorship.

Although visa restrictions on Indian journalists have been relaxed, on July 22, immigration authorities denied entry to Indian journalist Harider Baweja at Lahore International Airport despite her possession of a valid visa. She claimed that immi-

gration officials told her that she was on a blacklist. The Ministry of Foreign Affairs denied this assertion.

The Anti-Terrorist Act prohibits the possession or distribution of material designed to foment sectarian hatred or material obtained from banned organizations. As part of the government's crackdown on extremists, President Musharraf ordered police to take action against radical publications. For example, on July 15, police in Karachi arrested two managers of the extremist weekly *Zarab-e-Islam* and vendors of the extremist weekly *Zarb-e-Momen*, banned publications which openly support terrorist groups. On July 19, Karachi police banned the extremist weekly papers *Friday Special*, *Wajood*, and *Ghazi*, and the extremist daily newspaper *Ummat*, and arrested *Wajood's* editor and *Friday Special's* deputy editor for promoting extremist views. All those arrested in the Karachi raids were released on bail but faced charges under the Anti-Terrorist Act at year's end.

Court rulings mandate the death sentence for anyone blaspheming against the "prophets." The law provides for life imprisonment for desecrating the Koran and up to 10 years in prison for insulting another's religious beliefs with the intent to outrage religious feelings (see section 2.c.). On August 7, the Punjab provincial government ordered two Ahmadi printing presses in Jhang, Punjab, shut down. Police took the editor of the Ahmaddiya community magazine *al-Fazl*, Sami Khan, into protective custody and later released him. The move followed complaints from a local Islamic leader that the publications insulted the religious sentiments of Muslims. The provincial Home Department ultimately gave permission for the presses to reopen. Foreign books must pass government censors before being reprinted. Books and magazines may be imported freely but are subject to censorship for objectionable sexual or religious content.

Obscene literature, a category broadly defined by the government, was subject to seizure. Television stations broadcast dramas and documentaries on previously taboo subjects, including corruption, social privilege, narcotics, violence against women, and female inequality; however, some sensitive series were canceled before their broadcast.

Unlike in previous years, there were no reports that the government limited access to the Internet.

The government generally did not restrict academic freedom; however, the atmosphere of violence and intolerance fostered by student organizations, typically tied to political parties, continued to limit academic freedom. On some university campuses, well-armed groups of students, most commonly associated with the All Pakistan Mohajir Students Organization (APMSO) (affiliated with the MQM) and the Islami Jamiat Talaba (IJT) (affiliated with the JI), had clashes with and intimidated other students, instructors, and administrators over issues such as language, syllabus content, examination policies, grades, doctrines, and dress. These groups frequently facilitated cheating on examinations, interfered with the hiring of staff, influenced those admitted to the universities, and sometimes also influenced the use of funds of the institutions. Such influence generally was achieved through a combination of protest rallies, control of the campus media, and threats of mass violence. In response, university authorities banned political activity on many campuses, but with limited effect. For example, on February 14 and 15, the APMSO and the IJT engaged in violent fights at the S.M. Arts and Commerce College in Karachi. At least eight students were injured in the riots. Police ultimately intervened, arresting as many as 36 students. On September 28, the APMSO and IJT engaged in violent fights at the Government City College in Gulberg, Karachi. Police injured at least 11 students in the violence.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom "to assemble peacefully and without arms subject to any reasonable restrictions imposed by law in the interest of public order," and freedom of association, and the government generally observed these rights, but with some restrictions.

*Freedom of Assembly.*—While the government allowed numerous opposition rallies and demonstrations to proceed during the year, it refused permits for processions in urban areas. Ahmadis have been prohibited from holding any conferences or gatherings since 1984 (see section 2.c.).

Police sometimes used preventive detention and excessive force against demonstrators. In April the government utilized mass preventive detention to prevent a planned PPP procession in Lahore to mark the return of Asif Ali Zardari, husband of Benazir Bhutto, from a trip to Dubai. Between April 14 and 16, police detained approximately 10 thousand PPP office-holders, leaders, and activists who attempted to make their way to Lahore for the planned procession. On April 16, upon arrival in Lahore police officials escorted Zardari from the commercial aircraft on which he was traveling to his residence, effectively preventing the PPP from carrying out its

reception and procession. Following statements from PPP leaders that they were planning a new procession for April 21, police in Lahore and Faisalabad placed 200 activists in preventive detention. Police released all those detained within one month of their arrest. On May 15, Lahore police forcibly dispersed participants in a mixed-gender marathon that the HRCP and the Joint Action Committee for People's Rights had organized. The marathon was supposed to protest the Islamist disruption of a similar event in Gujranwala. Police temporarily detained between 40 and 50 participants in the event. Many arrested suffered minor injuries. The government claimed that it prohibited the marathon to prevent violence from Islamist extremists. On May 21, following negotiations between the organizers and the government, the event proceeded.

Extremists also disrupted public gatherings. On April 3, several hundred activists affiliated with the Muttahida Majlis-i-Amal (a coalition of Islamist political parties) used petrol bombs, clubs, and bricks to attack participants, organizers, spectators, and police at a mixed-gender marathon in Gujranwala with. The activists torched 19 vehicles and smashed windows in the stadium and adjacent buildings. Police used batons, tear gas, and firing in the air to restore order. The clash resulted in injuries to 15 persons. Police registered cases against more than 100 activists affiliated with the MMA, including Maulana Qazi Hamidullah, a member of the national assembly.

Unlike in previous years, the authorities did not restrict the domestic movements of leaders of religious political parties.

*Freedom of Association.*—The law provides for the right of association subject to restriction by government ordinance and law. NGOs were required to register with the government under the 1960 Cooperative Societies and Companies Ordinance. No prominent NGO reported problems with the government over registrations during the year. Some continued to operate without registering and were not prosecuted.

*c. Freedom of Religion.*—The law states that adequate provisions shall be made for minorities to profess and practice their religions freely; however, the government limited freedom of religion. Islam is the state religion, and the constitution requires that laws be consistent with Islam. All citizens were subject to certain provisions of Shari'a, such as the blasphemy laws. Reprisals and threats of reprisals against suspected converts from Islam occurred. Members of religious minorities were subject to violence and harassment, and police at times refused to prevent such actions or charge persons who committed them. The president and the prime minister must be Muslim. The prime minister, federal ministers, and ministers of state, as well as elected members of the senate and national assembly (including non-Muslims), must take an oath to "strive to preserve the Islamic ideology, which is the basis for the creation of Pakistan" (see section 3).

Religious groups must be approved and registered; there were no reports that the government refused to register any group.

The law declares the Ahmadi community, which considers itself a Muslim sect, to be a non-Muslim minority. Ahmadis, who claimed their population was approximately 2 million, were prohibited by law from engaging in any Muslim practices, including using Muslim greetings, referring to their places of worship as mosques, reciting Islamic prayers, and participating in the Hajj or Ramadan fast. Ahmadis are prohibited from proselytizing, holding gatherings, or distributing literature. Government forms, including passport applications and voter registration documents, require anyone wishing to be listed as a Muslim to denounce the founder of the Ahmadi faith. In March the government reinstated the religion column for machine readable passports (see section 2.d.). Ahmadis were frequently discriminated against in government hiring and in admission to government schools.

Complaints under the blasphemy laws, which prohibit derogatory statements or action against Islam, the Koran, or the prophets, were used to settle business or personal disputes and harass religious minorities or reform-minded Muslims. Most complaints were filed against the majority Sunni Muslim community. Most blasphemy cases were ultimately dismissed at the appellate level; however, the accused often remained in jail for years awaiting a final verdict. Trial courts were reluctant to release on bail or acquit blasphemy defendants for fear of violence from religious extremist groups. On January 4, President Musharraf signed a bill into law revising the complaint process and requiring senior police officials to review such cases in an effort to eliminate spurious charges. During the year there were 3 persons convicted and 5 acquitted under the blasphemy laws and another 67 ongoing cases.

All religious groups experienced bureaucratic delays and requests for bribes when attempting to build houses of worship or obtain land. The government prevented Ahmadis from building houses of worship.

*Islamiyyat* (Islamic studies) is compulsory for all Muslim students in state-run schools. Students of other faiths are exempt from such classes; however, in practice teachers induced many non-Muslim students to complete Islamic studies.

The Hindu community faced harassment and demands for bribes from security forces, particularly during tense periods in the relationship between Pakistan and India.

*Societal Abuses and Discrimination.*—Sectarian violence between Sunni and Shi'a extremists continued during the year. Attacks on mosques and religious gatherings resulted in nearly 75 deaths (see sections 1.a. and 5).

Christians and Ahmadis were the targets of religious violence. For example, on March 28, five gunmen opened fire on Christians leaving Easter services at a church in Lahore, killing one and injuring seven. The motivation for the attack, in which the police arrested two assailants, appeared to be a land dispute between local Muslims and the Christian community. In April unknown assailants kidnapped and killed Pastor Shamoon Babar and his Catholic driver, Daniel Emmanuel. Police surmised that the two men had been tortured and shot several times while bound; their bodies were left on the Peshawar road. Police suspected that Babar's non religious business activities were the motivating factor in the crime; however, the All Pakistan Minorities Alliance (APMA) believed the killings to be religiously motivated. On October 7, unidentified gunmen opened fire at an Ahmadi worship service in Mong, Mandi Bahauddin, Punjab, killing 8 and wounding 14 (see section 1.a.).

On November 12, following allegations that a Christian man had desecrated a Koran, an angry mob burned five churches and damaged other Christian property in Sangla Hill, Nankana Sahib District of Punjab. Throughout the evening of November 11 and into the morning of November 12, local mosques used their loudspeakers to incite the public to retaliatory action in response to the alleged desecration. NGOs reported that local officials took part in the announcements. At year's end 88 of the 200 persons arrested under terrorism charges for their participation in the violence remained in police custody.

Ahmadi leaders charged that militant Sunni mullahs and their followers sometimes staged marches through the streets of Rabwah, a predominantly Ahmadi town and spiritual center in central Punjab. Backed by crowds of between 100 and 200 persons, the mullahs reportedly denounced Ahmadis and their founder, creating a situation that sometimes led to violence. The Ahmadis claimed that police generally were present during these marches but did not intervene to prevent violence.

The Ahmadi, Christian, Hindu, and Shi'a Muslim communities reported significant discrimination in employment and access to education, including at government institutions.

Although there were few Jewish citizens in the country, anti-Semitic sentiments appeared to be widespread, and the press commonly published anti-Semitic and anti-Zionist press articles.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the government limited them in practice. The government required special permission to enter certain restricted areas, including parts of the FATA.

The law prohibits travel to Israel. Government employees and students must obtain "no objection" certificates before traveling abroad, although this requirement rarely was enforced against students. Persons on the publicly available ECL are prohibited from foreign travel. There were approximately 4,300 names on the ECL. While the ECL was intended to prevent those with pending criminal cases from traveling abroad, no judicial action is required to add a name to the ECL. Those on the list have the right to appeal for removal to the Secretary of Interior and the advocate general of the senior judiciary. Courts have intervened to have opposition leaders removed from the ECL.

The law prohibits forced exile; however, former Prime Minister Nawaz Sharif and his brother Shahbaz Sharif remained in exile abroad, in accordance with his 2000 agreement with the government. On November 7, the government granted Nawaz Sharif and his immediate family new passports, allowing them to travel outside Saudi Arabia. Former Prime Minister Benazir Bhutto remained in self-imposed exile. She faced a number of corruption and contempt of court charges should she return to the country.

*Internally Displaced Persons (IDPs).*—According to press reports there were approximately 1.5 million displaced Kashmiris, from Indian-held Kashmir, in the country. Under the law, Kashmiris are entitled to the same rights as citizens.



*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol; however, the government has a system to protect refugees. The government provided protection against *refoulement*, the return of persons to a country where they feared persecution. Since 1979 the government has provided temporary protection to millions of refugees from neighboring Afghanistan. According to a UN High Commissioner for Refugees (UNHCR)/government survey completed during the year, approximately 3 million Afghan refugees remained in country. The government continued to work closely with the UNHCR to provide support to this population. The government cooperated with UNHCR in the voluntary repatriation of 365,575 Afghan refugees during the year.

Police in some cases demanded bribes from Afghan refugees. There were credible reports that members of the intelligence community harassed refugees during their search for al-Qa'ida. Some female refugees who accepted jobs with NGOs reported harassment from Taliban sympathizers in their own community. Refugees faced societal discrimination and abuse from local communities, which resented economic competition, and blamed refugees for high crime rates. Single women, female-headed households, and children working on the streets were particularly vulnerable to abuse. Approximately 300 thousand Biharis, Urdu-speaking non-Bengali Muslims from Bangladesh, continued to campaign for resettlement in the country.

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

The law provides citizens with the right to change their government; however, this right was restricted in practice. President Musharraf has controlled the government since 1999 and dominated the PML federal coalition government.

*Elections and Political Participation.*—Domestic and international observers found the 2002 national assembly elections, the most recent national elections, and the August local elections deeply flawed.

Chief of Army Staff General Pervez Musharraf assumed the presidency by decree in 2001 following his overthrow of the elected government of Prime Minister Nawaz Sharif in 1999. The Supreme Court later sanctioned the coup; however, it directed Musharraf to restore elected government within three years. In 2002 President Musharraf held a nationwide referendum on a 5 year extension of his presidency and claimed to have received a 97.5 percent vote in favor of the referendum. However, independent observers found evidence of widespread fraud and coerced voting. The Supreme Court ruled that the referendum was constitutional; however, the court allowed the results to be revisited by an elected parliament. In 2003 the national assembly affirmed Musharraf as president until 2007.

Elections were held for the national and provincial assemblies in 2002. Musharraf's Legal Framework Order (LFO) created a number of new candidate eligibility prerequisites. International and domestic observers found the elections deeply flawed, identifying serious problems in the election framework and tampering with results in certain districts. After a number of floor crossings, which the opposition claim were induced, the PML formed a governing coalition in concert with the MQM, smaller parties, and dissident groups from opposition parties. The February 2003 indirect senate elections resulted in a majority for the governing coalition. In December 2003 the parliament incorporated a large part of the LFO into the 1973 constitution as its 17th Amendment. The amendment affirms Musharraf's presidency until 2007 and exempts him from a prohibition on holding two offices of state until the end of 2004, thereby allowing him to continue as chief of army staff. The amendment allows the president to dissolve parliament but requires him to obtain the consent of the Supreme Court within 30 days. Opposition parties said the amended constitution legitimizes the powerful role of the military in politics and transfers significant powers from the prime ministership to the previously ceremonial presidency. In October 2004 the national assembly, over objections from all opposition parties, approved a bill extending Musharraf's exemption to hold two offices through 2007. In December 2004 Musharraf announced that he would continue as chief of army staff.

The national assembly and the cabinet functioned normally during the year. In August 2004 the national assembly elected the PML candidate, former Finance Minister Shaukat Aziz, as prime minister, although all opposition parties boycotted the vote because their candidate, PML-N leader Javed Hashmi, was not allowed to appear at the assembly, having been convicted of sedition. Opposition parties criticized Aziz's election to the national assembly, claiming his two by-election victories to the assembly on August 18 were fraudulent. Domestic and international observers found irregularities but concluded the elections were generally free, fair, and credible.

President Musharraf continued to back reforms proposed by the National Reconstruction Bureau to empower local governments. On August 18 and 25, the country held direct local elections to choose members and executives for the lowest tier of local government, the union council. International observers found serious flaws in the contests in Sindh and Punjab provinces, principally during the August 25 round. Intimidation of opposition candidates and supporters, use of state resources to influence the election, vote-buying, and voting irregularities that appeared to benefit government-endorsed candidates occurred and likely had an impact on the results of the August 18 contest in Karachi and the August 25 contests in Sindh and Punjab. On October 6, indirect elections for executives of reserved minority and women's seats on the *tehsil* and district councils occurred. International observers found that all political parties engaged in attempted intimidation, coercion, and vote-buying during these contests.

The government permitted all existing political parties to function. The government forced the PPP and PML-N to elect in-country leaders other than former prime ministers Benazir Bhutto and Nawaz Sharif by refusing to register any parties whose leaders had a court conviction. The amended Political Parties Act bars any person from becoming prime minister for a third time, effectively eliminating Benazir Bhutto and Nawaz Sharif.

The opposition claimed the government continued to detain two of its leaders, Javed Hashmi and Yousaf Raza Gilliani, on politically motivated charges during the year.

The government ban on political party activities in the FATA continued. Candidates were not allowed to register by political party, and political party rallies were not allowed. Several political parties campaigned covertly during the 2002 national elections.

Inhabitants of the northern areas (Gilgit, Hunza, and Baltistan) were not covered under the constitution and had no representation in the federal legislature. An appointed civil servant administered these areas; an elected Northern Areas Council served in an advisory capacity. Members of the Azad Jammu Kashmir assembly and government are required to claim allegiance to Pakistan before they can stand in elections. Some Kashmiri political parties advocating for an independent Kashmir were not allowed to stand in elections.

There were 73 women in the 342-seat national assembly, 5 women in the cabinet; and none in the Supreme Court. Women have 60 reserved seats in the national assembly. Women also have 128 reserved seats of the 758 seats in provincial assemblies and one-third of the seats in local councils. In some districts social and religious conservatives prevented women from becoming candidates; however, in several districts female candidates were elected unopposed. Women participated in large numbers in elections, although some were dissuaded from voting by their families, religious and tribal leaders, and social customs. The PML and PPP prohibited their local leaders from entering into agreements that would prevent women from standing for or voting in the local elections. The ECP invalidated union council elections in parts of NWFP where women were not allowed to vote. Provincial chief ministers named women to serve in their cabinets.

There were 10 minorities in the 342-seat legislature, 1 on the Supreme Court, and none in the cabinet. All 10 minority members of the national assembly held reserved religious minority seats. Such seats are apportioned to parties based on the overall percentage of elected seats held in parliament. Previous direct elections for minority seats were abolished. Under the law, minorities held reserved seats in the provincial assemblies (see section 2.c.). The government required voters to indicate their religion when registering.

*Government Corruption and Transparency.*—Corruption among executive and legislative branch officials remained a problem during the year, and public perception of corruption was widespread. The National Accountability Ordinance prohibits those convicted of corruption by the NAB from holding political office for 10 years (see section 1.d.). The NAB disproportionately targeted opposition politicians for prosecution and did not prosecute members of the military.

While fairly restrictive regarding the information that citizens are entitled to, in 2002 a Freedom of Information Ordinance became law. The ordinance's effectiveness was unclear and there were no reports of citizens using the act to get information declassified during the year.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. They are required to be registered, although this requirement

was not generally enforced. Government officials often were cooperative and responsive to their views. Human rights groups reported that they generally had good access to police stations and prisons. The HRCP continued to investigate human rights abuses and sponsor discussions on human rights issues during the year.

President Musharraf criticized domestic women's rights organizations during the year. He discouraged their efforts to publicize rape and sexual abuse cases with the international community, claiming that such efforts damaged the country's international image.

On May 14, police in Lahore prevented several human rights organizations from holding a symbolic mixed-gender mini-marathon to highlight violence against women, as organizers did not have appropriate permits (see section 2.b.). In the course of arresting those who refused to adhere to police instructions to disperse, police hit Asma Jahangir, the UN Special Rapporteur on Human Rights and head of the HRCP, with a baton and tore off her shirt.

International observers were permitted to visit the country and travel freely. The government generally cooperated with international governmental human rights organizations. The ICRC had a delegation in country.

The Senate and National Assembly Standing Committees on Law, Justice, and Human Rights held hearings on a number of issues, including honor crimes, police abuse of the blasphemy law, and the Hudood Ordinance. While the committees served as useful fora to raise public awareness of such issues, their final actions generally adhered to government policy. The Parliamentarians Commission for Human Rights, an interparty caucus of parliamentarians, lobbied effectively for reform in key areas.

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

The law provides for equality for all citizens and broadly prohibits discrimination based on race, religion, caste, residence, or place of birth; however, in practice there was significant discrimination based on these factors.

*Women.*—Domestic violence was a widespread and serious problem. Husbands frequently beat, and occasionally killed, their wives, and often newly married women were abused and harassed by their in-laws. Dowry and family-related disputes often resulted in death or disfigurement through burning or acid. For example in Peshawar on May 1, Anwar Khan killed his wife Rashida Bibi after she refused to allow the sale of their daughter in marriage to an Afghan national for approximately \$836 (PKR 50 thousand). During the year there were 134 cases of stove deaths, many of these related to disputes with in-laws.

According to the HRCP, one out of every two women was the victim of mental or physical violence. The National Commission on the Status of Women has called for specific domestic violence legislation. In its absence, abusers may be charged with assault, but cases rarely were filed. Police and judges were reluctant to take action in domestic violence cases, viewing it as a family problem. Battered women were usually returned to their abusive family members. Women were reluctant to pursue charges because of the stigma attached to divorce and their economic and psychological dependence on relatives. Relatives were reluctant to report abuse for fear of dishonoring the family reputation.

The government criticized violence against women. Its Crisis Center for Women in Distress refers abused women to NGOs for assistance. During the year the NGO Struggle for Change (SUCH), which operated a shelter for abused women, provided rehabilitation assistance (shelter, employment counseling, and legal aid) to 49 women. An additional 107 women received legal or financial assistance from SUCH during the year. Provincial governments operated shelters for women in distress at the district level. In some cases, women were abused in the shelters. For example on August 13, Kanwal fell from the roof of the shelter in Hyderabad while trying to escape what other shelter residents reported were abusive conditions. Kanwal died the next day. A preliminary inquiry charged the night staff of the shelter with neglect for failing to provide adequate first aid and for failing to summon medical assistance immediately.

Rape, other than by one's spouse, is a criminal offense. One cannot be prosecuted for marital rape or for rape in cases where a marriage between the perpetrator and victim has been contracted but not solemnized. Although rape was widespread, prosecutions were rare. It is estimated that rape victims reported less than one-third of rape cases to the police. Police were at times implicated in the crime.

On May 3, police allegedly abducted Sonia Naz and detained her for 10 to 12 days, during which time she claimed that the SHO, Jamshed Chishti, raped her on the orders of Abdullah Khalid, Faisalabad Superintendent of Police for Investigation. On April 21, the speaker of the national assembly ordered the arrest of Naz for illegally appearing on the floor of the house to seek assistance for her husband,

who the same police officials had allegedly harassed in connection with an investigation into stolen vehicles. The Speaker ultimately withdrew his complaint on October 7. Police originally refused to file rape charges against the accused, but following a Supreme Court order, on October 12, they arrested the officers for rape. After an initial investigation into the rape incident resulted in conflicting conclusions, including one accusing Naz of falsifying the rape claim, the Supreme Court established a new investigation team of more senior officials that began its work on October 26. Courts cancelled initial bail for Abdullah and Chishti, and the two men surrendered to police on October 18 and 19 respectively. In September the Punjab chief minister suspended both from the police force.

Many rape victims were pressured to drop charges. Police and prosecutors often threatened to charge a victim with adultery or fornication if she could not prove the absence of consent, and there were cases in which rape victims were jailed on such charges. The standard of proof for rape set out in the Hudood Ordinances is based on whether the accused is to be subjected to Koranic or secular punishment. In cases of Koranic punishment, which can result in public flogging or stoning, the victim must produce four adult male Muslim witnesses to the rape or a confession from the accused. No Koranic punishment has ever been applied for rape. The standards of proof are lower for secular punishment, which can include up to 25 years in prison and 30 lashes. Such punishment was applied frequently. Courts, police, and prosecutors at times refused to bring rape cases when Koranic standards of evidence could not be met.

Police often abused or threatened the victim, telling her to drop the case, especially when bribed by the accused. Police requested bribes from some victims prior to lodging rape charges, and investigations were often superficial. Medical personnel were generally untrained in collection of rape evidence and were at times physically or verbally abusive to victims, accusing them of adultery or fornication. Women accused of adultery or fornication were forced to submit to medical exams against their will, even though the law requires their consent. Judges were reluctant to convict rapists, applied varying standards of proof, and at times threatened to convict the victim for adultery or fornication rather than the accused for rape. Families and tribes at times killed rape victims or encouraged them to commit suicide.

On January 2 in Sui, Balochistan, an unknown person broke into the bedroom of and raped Dr. Shazia Khalid, an employee of the Pakistan Petroleum Company. Dr. Shazia was unable to identify her rapist, but Baloch nationalist leaders claimed that frontier corps personnel committed the rape and accused the government of a cover-up. The government maintained that DNA tests ruled out the suspect. In February a tribal *jirga* determined that Dr. Shazia's rape had dishonored the tribe and that she should be murdered. In March Dr. Shazia and her husband departed the country. At year's end the government made no progress in the investigation.

On March 3, the Lahore High Court overturned the conviction and death sentence of five of the six persons convicted in the gang rape of Mukhtiar Bibi and commuted the sentence of the 6th to 25 years in prison. On March 11, the Federal Shariat Court stayed the high court ruling and ordered the defendants released on bail while it reviewed the case. On March 13, the Supreme Court issued a stay on both the high and shariat court rulings but allowed the defendants to remain at large. In early June Mukhtiar announced that she intended to travel overseas to address an international women's rights conference. In response, the government, on the order of President Musharraf, placed her on the ECL, pressured her not to travel, and attempted to block her from obtaining necessary visas. The prime minister ultimately removed Mukhtiar from the ECL on June 15, although she did not travel. On June 28, the Supreme Court decided that it would take jurisdiction of the gang rape case and ordered the five convicted held without bail for the duration of the trial. On the same day, the government ordered the eight originally acquitted in the case held under the Maintenance of Public Order Ordinance as a threat to Mukhtiar Bibi. In October Mukhtiar traveled abroad without incident.

Husbands and male family members often brought spurious adultery and fornication charges against women under the Hudood Ordinances. Even when courts ultimately dismissed charges, the accused spent months, sometimes years, in jail and saw her reputation destroyed. The government's National Commission on the Status of Women advocated the repeal of the Hudood Ordinances. On January 4, President Musharraf signed a bill into law that requires senior police officials to evaluate the merits of adultery and fornication allegations and requires a court order before a woman can be arrested on such charges. The percentage of the female prison population awaiting trial on such Hudood charges declined significantly to approximately 33 percent.

Honor killings and mutilations occurred during the year (see section 1.a.). Women were often the victims at the hands of their husbands or male relatives. No accurate

statistics exist on the number of honor crimes committed during the year. However, human rights groups believed that such incidents were fairly common, with the majority occurring in Sindh. The practice was also common in Punjab and among tribes in Baluchistan, NWFP, and FATA. On January 4, President Musharraf signed a bill into law that provides for additional penalties for all crimes involving honor and restricts the right of victims or heirs to pardon perpetrators in exchange for restitution.

For example, on January 22, in Lahore, Riaz shot and killed his niece Aysha Javed after accusing her of having sexual relations with her neighbor, Mahboob Khan. Riaz also attacked Mahboob Khan's residence, killing his father Yaqoob Khan and seriously injuring his two brothers. Police arrested Riaz and two accomplices, all of whom remained in detention at year's end. On March 21, in Pathan Wah Village, Shikarpur District, Sindh, Yousif shot and killed his new bride Arbeli two hours after their wedding ceremony. He accused his wife of having had sexual relations with her cousin, Abdul Sattar Mirbahar. Yousif and six alleged accomplices remained at large at year's end.

The estimated 100 thousand Bohra Muslims practiced female genital mutilation (FGM). While no statistics on the prevalence of FGM among the Bohras existed, the practice reportedly declined.

Sexual harassment was a widespread problem. While the Pakistan Penal Code prohibits harassment, prosecution was rare.

Prostitution was not legal. Most prostitutes were victims of either domestic or international trafficking and were held against their will. Police raided brothels during the year, but many continued to operate underground particularly in larger cities.

The law prohibits discrimination on the basis of sex; however, in practice this provision was not enforced. Women faced discrimination in family law, property law, and in the judicial system (see section 2.c.). The Hudood Ordinances create judicial discrimination against women. Women's testimony in cases involving proposed Koranic punishment was considered invalid or discounted significantly. In other cases involving property matters or questions of future obligations, a woman's testimony is equal to half that of a man's testimony.

Family law provides protections for women in cases of divorce, including requirements for maintenance, and lays out clear guidelines for custody of minor children and their maintenance. Many women were unaware of these legal protections or unable to obtain legal counsel to enforce them. Divorced women were often left with no means of support and were ostracized by their families. While prohibited by law, the practice of buying and selling brides continued in rural areas. Women are legally free to marry without family consent, but women who did so were often ostracized or were the victims of honor crimes.

Inheritance law discriminates against women. Female children are entitled to only half the inheritance of male children. Wives inherit only one-eighth of their husband's estate. Women often received far less than their legal inheritance entitlement. In rural Sindh landowning families continued the practice of "Koranic marriages" in an effort to avoid division of property. Property of women married to the Koran remains under the legal control of their father or eldest brother, and such women are prohibited from contact with any male over 14 years of age.

Women faced significant discrimination in employment and were frequently paid less than men for similar work. In many rural areas of the country, strong societal pressure prevented women from working outside the home. Some tribes continued the traditional practice of sequestering women from all contact with males other than relatives.

The government's Ministry for the Advancement of Women lacked sufficient staff and resources to function effectively. Continuing government inaction in filling vacant seats on the National Commission for the Status of Women hampered its efficacy. During visits to New Zealand in June and the United States in September, President Musharraf criticized domestic and international women's organizations for highlighting the issue of rape and violence against women in the country. In an interview with the *Washington Post*, the president stated that rape was becoming a "money making concern," and "a lot of people say that if you want to go abroad and get a visa from Canada or citizenship and be a millionaire, get yourself raped." He made similar remarks during a government-sponsored conference on women's rights in Islamabad in September.

Numerous women's rights groups such as the Progressive Women's Association, Struggle for Change, and Aurat Foundation were active in urban areas. Primary issues of concern included domestic violence, the Hudood Ordinances, and honor crimes.

*Children.*—The government does not demonstrate a strong commitment to children's rights and welfare through its laws and programs. There is no federal law on compulsory education. Public education is free; however, fees were charged for books, supplies, and uniforms. Public schools, particularly beyond the primary grades, were not available in many rural areas, leading parents to use the parallel private Islamic school (*madrassa*) system. In urban areas many parents sent children to private schools due to the lack of facilities and poor quality of education offered by the public system.

According to a foreign aid organization, of the 18 million children between the ages of 5 and 9, only 42 percent were in school. Less than half of children who enrolled completed more than five years of education. Out of every 100 children who enrolled, only 6 completed grade 12. The national literacy rate of 38 percent showed a significant gap between males (50 percent) and females (24 percent) due to historical discrimination against educating girls. While anecdotal evidence suggested increasing female participation in education, such discrimination continued, particularly in rural areas. The UN estimated that 7 thousand of the 12 thousand schools in the affected areas were destroyed or damaged beyond repair in the October 8 earthquake.

Madrassas served as an alternative to the public school system in many areas. Many madrassas failed to provide an adequate education, focusing solely on Islamic studies. Graduates were often unable to find employment. A few madrassas, particularly in the Afghan border area, reportedly continued to teach religious extremism and violence. The government continued its efforts to modernize madrassa education during the year. An agreement was reached with the country's 5 independent madrassa boards to register the 85 percent of madrassas under their control and to introduce a modern educational curriculum. Government funding has been allocated in the budget to assist with teacher training.

At the vast majority of madrassas, students were reasonably well treated. However, press reports claimed that there were some madrassas where children were confined illegally, kept in unhealthy conditions, and physically or sexually abused.

Child health care services remained seriously inadequate. According to the National Institute of Child Health Care, more than 70 percent of deaths between birth and the age of 5 years were caused by easily preventable ailments such as diarrhea and malnutrition. While boys and girls had equal access to government facilities, families were more likely to seek medical assistance for boys. Children were also the most affected by the October 8 earthquake, where the UN Children's Fund (UNICEF) estimated that half of the 73 thousand deaths were children. NGOs estimated that approximately 2 million children were adversely affected in the NWFP and the Azad Jammu Kashmir quake zone.

Child abuse was widespread. According to child rights NGOs, abuse was most common within families. In rural areas, poor parents sold children as bonded laborers (see section 6.d.) and at times sold daughters to be raped by landlords. The legal age of marriage for males is 18, and 16 for females, and there are no provisions to allow marriages at a lower legal age with parental consent. No credible statistics were available on the frequency of child marriage, but NGOs agreed that it was a problem, especially in the Dir and Swat districts of the NWFP, where the sale or trading of girls as young as 11 into marriage was reportedly common practice among the Pashtun subtribes.

Trafficking and commercial sexual exploitation were problems (see section 5, Trafficking).

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

NGOs like Sahil, Sparc, and Rozan worked on child labor, child sexual abuse, and child trafficking. NGOs played an important role in providing counseling and medical services to victims and in raising awareness of these problems.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking was a serious problem. All forms of trafficking are prohibited under the Prevention and Control of Human Trafficking, Ordinance 2002, and maximum penalties range from 7 to 14 years' imprisonment plus fines. The government arrested 513 suspected traffickers and prosecuted 179 under the ordinance during the year. The Federal Investigation Agency's (FIA) dedicated ATU had primary responsibility for combating trafficking. An Inter-Ministerial Committee on Human Trafficking and Smuggling coordinated federal efforts. The government assisted other countries with international investigations of trafficking.

Although no accurate statistics on trafficking existed, the country was a source, transit, and destination country for trafficked persons. Women and girls were trafficked from Bangladesh, Afghanistan, Iran, Burma, Nepal, and Central Asia for forced commercial sexual exploitation and bonded labor in the country based on erroneous promises of legitimate jobs. In a similar fashion, men and women were traf-

ficked from the country to the Middle East to work as bonded laborers or in domestic servitude. Upon arrival, both groups had passports confiscated and were forced to work to pay off their transportation debt. Families continued to sell young boys between ages 3 and 10 for use as camel jockeys in Middle Eastern countries, and authorities estimated that there were between two to three thousand child citizens in the UAE being used as camel jockeys. Women and children from rural areas were trafficked to urban centers for commercial sexual exploitation and labor. In some cases families sold these victims into servitude, while in other cases they were kidnapped. Women were trafficked from East Asian countries and Bangladesh to the Middle East via the country. Traffickers bribed police and immigration officials to facilitate passage. During the year authorities prosecuted governmental officers and arrested FIA inspectors. A complete tally of such actions was not available.

The government rescued some kidnapped victims. The Overseas Pakistani Foundation and the Ansar Burney Welfare Trust repatriated 13,967 citizens trafficked to the Middle East. Of these, 147 were camel jockeys from the UAE and 10,584 were laborers from Oman. In March the government opened its first model shelter specifically for trafficking victims. There were 276 additional district-run emergency centers for women in distress where they were sheltered and given access to medical treatment, limited legal representation, and some vocational training. The government provided temporary residence status to foreign trafficking victims. The FIA and the International Organization for Migration held training and seminars on trafficking for government officials and NGOs during the year. The Interior Minister personally was engaged in such efforts. Very few NGOs dealt specifically with trafficking; however, many local and provincial NGOs provided shelter to victims of trafficking and those at risk for trafficking.

With the establishment of a dedicated ATU, treatment of trafficking victims improved significantly. Unlike in previous years, there were no reports of police treating trafficking victims as criminals or threatening them with prosecution for adultery or fornication. Foreign victims, particularly Bangladeshis, faced difficulties in obtaining repatriation to their home countries. Women trafficked abroad and sexually exploited faced societal discrimination on their repatriation.

Several NGOs held workshops on trafficking during the year, and the government and NGOs worked to publicize the plight of camel jockeys and discourage the continuation of the practice.

*Persons with Disabilities.*—The government has not enacted legislation or otherwise mandated access to buildings or government services for persons with disabilities. Families cared for the vast majority of persons with physical and mental disabilities. However, in some cases these individuals were forced into begging, and organized criminals took much of the proceeds. There is a legal provision requiring public and private organizations to reserve at least 2 percent of their jobs for qualified persons with disabilities. Organizations that do not wish to hire persons with disabilities instead can give a certain amount of money to the government treasury, which uses funds for persons with disabilities. This obligation was rarely enforced. The National Council for the Rehabilitation of the Disabled provided some job placement and loan facilities. Mentally ill prisoners normally lacked adequate care and were not segregated from the general prison population (see section 1.c.).

*Other Societal Abuses and Discrimination.*—Homosexual intercourse is a criminal offence; however, the government rarely prosecuted cases.

Homosexuals did not reveal openly their sexual orientation, and there were no allegations during the year of discrimination on the basis of sexual orientation.

Those suffering from HIV/AIDS faced broad societal discrimination. While the government has launched education and prevention campaigns, these have done little to protect victims.

The Shi'a, Christian, Hindu, and Ahmadi communities all faced discrimination and societal violence (see section 2.c.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Industrial Relations Ordinance (IRO) provides industrial workers the right to form trade unions. The Essential Services Maintenance Act (ESMA), which applies to the security forces, most of the civil service, health care workers, and safety and security personnel at petroleum companies, airports, and seaports, was often invoked to limit or ban strikes or curtail collective bargaining rights. Agricultural workers, nonprofit workers, and teachers, among others, are not afforded the right to unionize. According to government estimates, union members were approximately 10 percent of the industrial labor force and 3 percent of the total estimated work force; however, unions claimed that the number of union members was underestimated.

*b. The Right to Organize and Bargain Collectively.*—In those sectors covered by the IRO, the government allowed unions to conduct their activities without interference. The IRO protects the right to collective bargaining subject to restrictions but limits the right of unions to strike. The IRO allows only one union to serve as the collective bargaining agent within a given establishment, group of establishments, or industry. In cases where more than one union exists, the IRO establishes a secret balloting procedure to determine which union shall be registered as agent.

Legally required conciliation proceedings and cooling-off periods constrain the right to strike, as does the government's authority to end any strike that may cause "serious hardship to the community," prejudice the national interest, or has continued for 30 days. The government can and has prohibited all strikes by public utility services under the IRO. The law prohibits employers from seeking retribution against leaders of a legal strike and stipulates fines for offenders. The law does not protect leaders of illegal strikes.

Several small strikes occurred during the year. For example in May and June, Pakistan Telecommunications workers' unions held brief nationwide strikes to protest privatization of the company. The strikes ceased after negotiations with the government.

National labor laws require the government to determine every six months whether collective bargaining is to be allowed. In cases where collective bargaining was prohibited, special wage boards decided wage levels. Such boards were established at the provincial level and were composed of representatives from industry, labor, and the provincial labor ministry. Unions generally were dissatisfied with the boards' findings. Disputes were adjudicated before the National Industrial Relations Commission.

The estimated 12,500 employees working in Pakistan's three Export Processing Zones (EPZs) are exempted by the ESMA from the protection and right to form trade unions provided by the IRO. The Export Processing Zone Authority drafts labor laws within the EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or bonded labor, including by children; however, the government did not enforce these prohibitions effectively. The Bonded Labor System Abolition Act (BLAA) outlaws bonded labor, cancels all existing bonded debts, and forbids lawsuits for the recovery of such debts. The act makes bonded labor by children punishable by up to 5 years in prison and up to \$833 (PKR 50 thousand) in fines.

Realistic statistics on bonded labor were difficult to obtain. Estimates suggested that 5 to 20 million persons were involved in some form of bonded labor, which was common in the brick, glass, carpet, and fishing industries. In rural areas, particularly in the Tharparkar District of Sindh, bonded labor in the agricultural and construction sectors was fairly widespread. A large proportion of bonded laborers were low caste Hindus, or Muslim and Christian descendants of low-caste Hindus. Bonded laborers were often unable to determine when their debts were fully paid. Those who escaped often faced retaliation from former employers. Some bonded laborers returned to their former status after being freed due to a lack of alternative livelihoods. Although the police arrested violators of the law against bonded labor, many such individuals bribed the police to release them. Human rights groups reported that landlords in rural Sindh maintained as many as 50 private jails housing approximately 4,500 bonded laborers. Ties between such landlords and influential politicians hampered effective elimination of bonded labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The government has adopted laws and promulgated policies to protect children from exploitation in the workplace; however, enforcement of child labor laws was lax, and child labor was a serious problem. The Ministry of Labor has identified 35 hazardous forms of child labor, including street vending, surgical instrument manufacturing, deep-sea fishing, leather manufacturing, brick making, and carpet weaving, among others. Child labor in agriculture and domestic work was also common.

Forced and bonded labor, sexual exploitation, and the trafficking of children occurred (see section 5).

The Employment of Children Act prohibits the employment of children under age 14 years in factories, mines, and other hazardous occupations and regulates their conditions of work. For example no child is allowed to work overtime or at night; however, there were few child labor inspectors in most districts, and the inspectors often had little training, insufficient resources, and were susceptible to corruption. By law inspectors may not inspect facilities that employ less than 10 persons, where most child labor occurs.

Hundreds of convictions were obtained for violations of child labor laws, but low fines levied by the courts—ranging from an average of \$6 (PKR 364) in the NWFP



to an average of \$121 (PKR 7,280) in Baluchistan—were not a significant deterrent. The Employment of Children Act allows for fines of up to \$333 (PKR 20 thousand). Penalties often were not imposed on those found to be violating child labor laws.

The International Labor Organization—International Program for the Elimination of Child Labor (ILO–IPEC) continued programs in the carpet weaving, surgical instrument, rag picking, and deep-sea fishing industries and launched a Time Bound Program for the Elimination of the Worst Forms of Child Labor. Working with industries and the government, ILO–IPEC used a combination of monitoring, educational access, rehabilitation, and family member employment to transition children out of these industries.

*e. Acceptable Conditions of Work.*—The national minimum wage for unskilled workers was \$42 (PKR 2,500) per month. It applies only to industrial and commercial establishments employing 50 or more workers. The national minimum wage did not provide a decent standard of living for a worker and family. Additional benefits required by the Federal Labor Code include official government holidays, overtime pay, annual and sick leave, health care, education for workers' children, social security, old age benefits, and a worker's welfare fund.

Federal law provides for a maximum workweek of 48 hours (54 hours for seasonal factories) with rest periods during the workday and paid annual holidays. These regulations did not apply to agricultural workers, workers in factories with fewer than 10 employees, domestic workers, and contractors.

Health and safety standards were poor. There was a serious lack of adherence to mine safety and health protocols. For example, mines often only had one opening for entry, egress, and ventilation. Workers could not remove themselves from dangerous working conditions without risking loss of employment.

Provincial governments have primary responsibility for enforcing all labor regulations. Enforcement was ineffective due to limited resources, corruption, and inadequate regulatory structures. Many workers were unaware of their rights.

## SRI LANKA

Sri Lanka is a constitutional, multiparty republic with a population of approximately 20 million. President Mahinda Rajapaksa, elected on November 17 to a 6-year term, and the 225-member parliament, elected in April 2004 also for a 6-year term, share constitutional power. According to the preliminary report of the European Union Election Observation Mission (EUEOM), the November 17 presidential election was generally conducted in a professional and impartial manner, with the exception of the boycott enforced by the Liberation Tigers of Tamil Eelam (LTTE) in the north and east, and was deemed an improvement over the 2004 election. From 1983 until 2001, the government fought the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organization that advocated a separate ethnic Tamil state in the north and east of the country. In 2001, the government and the LTTE announced unilateral cease-fires and signed a formal cease-fire accord in 2002. In 2003 after participating in six rounds of talks facilitated by the Norwegian government, the LTTE suspended the negotiations. The civilian authorities generally maintained effective control of the security forces, although some members of the security forces committed serious human right abuses.

The government generally respected the human rights of its citizens, although serious problems remained. During the year both the government and the LTTE frequently violated the 2002 peace accord. According to Sri Lanka Monitoring Mission (SLMM) statistics, the LTTE committed 14 cease-fire violations for every 1 committed by the government. Civilian deaths due to land mines were drastically reduced through a nationally coordinated humanitarian demining effort. The government enacted emergency regulations three times during the year: twice following the December 2004 tsunami, and once following the August 12 killing of Foreign Minister Lakshman Kadirgamar. The emergency regulations, which remained in effect at year's end, permit arrests without warrant and nonaccountable detentions for up to 12 months. The following human rights problems were reported:

- unlawful killings by government agents
- high-profile killings by unknown actors
- politically motivated killings by paramilitary forces and the LTTE
- disappearances
- arbitrary arrest and detention
- torture

- poor prison conditions
- denial of fair public trial
- government corruption and lack of transparency
- infringement of religious freedom
- infringement of freedom of movement
- discrimination against minorities

There were numerous reports that armed paramilitary groups, suspected of being linked to the government or security forces, participated in armed attacks during the year. These groups included the Karuna faction of the LTTE, the Eelam People's Democratic Party (EPDP), and the People's Liberation Organization of Tamil Eelam (PLOTE). The LTTE continued to control large sections of the north and east and engaged in politically motivated killings, disappearances, torture, arbitrary arrest and detention, denial of fair public trial, arbitrary interference with privacy, denial of freedom of speech, press, of assembly and association, and the recruitment of child soldiers.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by the government; however, it was often alleged that paramilitary groups, sometimes with the aid of the government, engaged in targeted killings of political opponents. The government and the army denied the allegations. Human rights organizations and other sources reported an increase in encounter killings by police. At year's end the Human Rights Commission (HRC) reported that police killed 25 individuals in police custody. The HRC determined that 20 of those individuals died as a result of torture in police custody during the year (see section 1.c.).

On February 5, police arrested Polwatta Ratubaduge Ajiith Wishantna for his role in the November 2004 shooting death of Gerald Perera. Authorities had tortured Perera while he was in custody in 2002 and killed him in November 2004 after he had complained to police and human rights monitors about his treatment at the hands of the police. Three of the seven police officers accused of torturing Perera in 2002 admitted that they had Perera killed because they feared his testimony would lead to their imprisonment. At year's end six officers implicated in the conspiracy remained in custody.

On March 25, in Kalutara District, two police officers from the Panadura police station beat Nallawarige Sandasirilal Fernando unconscious while trying to arrest his brother. On March 28, Fernando died in a local hospital. Authorities indicted two police officers, but at year's end the officers remained on duty.

On April 10, in Colombo District, Maharagama police allegedly pulled Don Wijerathna Munasinghe from his three-wheel taxi for failing to stop. The officers beat him in front of his wife and son, and then again in custody. On April 11, Munasinghe was released, but he subsequently died on April 16 from injuries sustained during the police beating. At year's end the case was referred to the attorney general's department for further action, and the three police constables accused of the beating remained on duty.

On April 18, in Ratnapura District, five police officers from the Rakwana police station arrested Helwala Langachcharige Susantha Kulatunga and reportedly beat him while he was in custody. On April 20, a day after two policemen told Kulatunga's daughters that they would never see their father again, Kulatunga was found dead, hanging from the prison-cell door, with his knees on the ground and his hands tied behind his back (see section 1. c.). A postmortem found 107 injuries across his body but no neck trauma. An investigation was ongoing, but at year's end no arrests were made.

On July 4, five suspects were found guilty and sentenced to death for the November 2004 killing of high court judge Sarath Ambepitiya and his bodyguard.

There were no developments in the February 2004 shooting death of Bellanavithanage Sanath Yasaratne.

There were no developments in the April 2004 custodial killing of Muthuthanthrige Chamal Ranjith Cooray or in the October 2004 killing, allegedly by police, of Herman Quintus Perera.

There were several reports of high profile killings by unknown actors during the year. For example, on February 7, unknown gunmen killed E. Kausalyan, political head of the Batticaloa-Amparai division of the LTTE, and former Tamil National Alliance (TNA) parliamentarian A.C. Nehru. Unknown persons sprayed the vehicle

with automatic weapons, killing the two men and their LTTE bodyguards after their van passed a military checkpoint on a government-controlled road in Polonnaruwa District. The LTTE blamed military intelligence for colluding with the breakaway Karuna faction and other paramilitaries in the killing.

On April 28, four men abducted prominent Tamil journalist and editor of *Tamilnet*, Sivaram Dharmaratnam, in front of a Colombo police station. Dharmaratnam's bound and gagged corpse was found with a bullet wound in the head the following morning inside the high security zone surrounding parliament. The LTTE claimed military intelligence and paramilitary forces were responsible for the killing. On June 13, police arrested ex-PLOTE commander Arumugam Sriskandarajan for the killing, and at year's end he was awaiting trial.

On December 24, unidentified gunmen shot and killed TNA parliamentarian Joseph Pararajasingham while he was attending midnight mass at St. Mary's cathedral in Batticaloa. The LTTE accused government security forces of conspiring with paramilitaries in the killing. At year's end police had made no arrests.

On May 27, the Supreme Court acquitted 4 defendants, including 1 police officer, involved in the 2000 killing of 27 Tamil inmates at the Bindunuwewa rehabilitation camp. The court acquitted the men because the defendants' guilt had not been proved beyond a reasonable doubt. In June 2004 the Supreme Court acquitted another defendant in the case, police officer Tyronne Ratnayake, citing insufficient evidence. In a public statement issued on June 2, Human Rights Watch called on the government to reopen the investigation to identify those responsible for the killings and pointed out that although the presidential commission investigating the killings at Bindunuwewa cited the local police commanders for dereliction of duty, these officers were not indicted or punished.

*b. Disappearance.*—The HRC reported 25 instances of politically motivated disappearances at the hands of the security forces during the year, and 10 instances by paramilitary forces allegedly tied to the government (see section 1.a.).

There were no developments in any of the unclassified disappearance cases cited by the 2000 UN Working Group on Enforced or Involuntary Disappearances; neither was there any effort put forward by the government to gather information on these cases. During the year the cabinet refused a 2004 request to compensate the next of kin of 960 missing persons and denied the request to compensate the next of kin of another 594 missing persons due to a lack of death certificates. Since 2000, 12 disappearances from previous years were reported by the UN Working Group, 7 of which were still pending. There have been no developments in these cases.

In 2004 a government commission investigating disappearances that occurred in Jaffna in 1996–97 issued letters to next of kin confirming that after being arrested by security forces, the victims disappeared. Next of kin have used these letters to support habeas corpus cases, and at year's end there were 55 cases pending.

At year's end the HRC continued to investigate 16,305 past cases of disappearance by security forces, some of which have been pending for 10 years. There were no indictments, investigations, or prosecutions of security force personnel for past disappearances. Regional commissions, 3 established in 1994 and a fourth established in 1998, reported 21,215 disappearances between 1988 and 1994, most of which occurred during the 1988–89 period of the Janatha Vimukthi Peramuna (People's Liberation Front-JVP) uprising. The commissions found that many persons disappeared after having been removed involuntarily from their homes, in most cases by security forces. There were no developments in any of these cases during the year, and little activity to bring any of them to prosecution.

During the year the LTTE continued to detain civilians, often holding them for ransom (see section 1.g.). For example, at year's end, there were more than 97 reports that the LTTE had abducted adults according to the SLMM.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law makes torture a punishable offense but does not implement several provisions of the UN Convention Against Torture. Human rights groups maintained that while torture is prohibited under specific circumstances, it was allowed under others. According to the HRC and other credible sources, the use of police torture to extract admissions and confessions was endemic and conducted with impunity. In addition the Emergency Regulations make confessions obtained under any circumstance, including by torture, sufficient to hold a person until the individual is brought to court; 1,798 arrests were made under the Emergency Regulations during the year, although 1,236 of those arrested were released within 12 hours. The majority of those arrested were Tamil, although detainees included Sinhalese and Muslims as well. In addition to suspicion of terrorism, people were detained for lack of identification, narcotics, and outstanding warrants (see section 1.d.).

Methods of torture included beatings—often with sticks, iron bars or hose—electric shock, suspending individuals by the wrists or feet in contorted positions, burning, genital abuse, and near-drowning. Detainees reported broken bones and other serious injuries as a result of their mistreatment, and during the year deaths occurred in police custody (see section 1.a.).

On October 10, the trial began of three police officers indicted by the Kurunegala High Court for allegedly torturing and sexually abusing Nandini Herat in 2002, and at year's end the trial was in progress. The government continued to investigate seven past cases of rape committed by security forces.

Of the 634 allegations of police torture, the majority of complaints came from police stations outside the north and east. The government continued to investigate 183 past cases of torture.

There were credible nongovernmental organization (NGO) reports that police tortured individuals in custody. For example, the Asian Human Rights Commission (AHRC) reported that on May 19, Hevana Hennadige Priyadarshana Fernando was kicked and beaten at the Panadura police station in Kalutara District. Fernando was later released on bail, and the magistrate was informed of the torture incident. At year's end no charges were filed against the officers responsible for torturing Fernando, although the original charges against Fernando remained.

On June 11, Jayasekara Vithanage Saman Priyankara reported harassment and intimidation regarding his January 2004 complaint of police torture at the Matale police station. At year's end there were no developments in his case.

On July 11, according to the AHRC, tuberculosis patient Thummiya Hakura Sarath testified that in February 2004 subinspector Silva of the Welipenna police station forced Sarath to spit into the mouth of Palitha Tissa Kumara Koralaliyanage, who was in custody and whom subinspector Silva was torturing. The Supreme Court had not heard Koralaliyanage's case, which was pending at year's end.

Special sections of the attorney general's office and the criminal investigation unit focused on torture complaints. During the year the units forwarded 63 cases for indictments, in which 1 resulted in an indictment, 2 were dismissed, and the other 59 were pending. The interparliamentary permanent standing committee and its interministerial working group on human rights issues also continued to track criminal investigations of torture.

In June 2004 the HRC established a torture prevention monitoring unit to implement its "zero tolerance" torture policy (see section 4). The HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. The HRC also assigned special teams to investigate deaths in police custody. By year's end the HRC had opened cases on 634 torture complaints.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards due to acute overcrowding and lack of sanitary facilities. In some cases juveniles were not held separately from adults. Pretrial detainees were not held separately from those convicted.

The government permitted visits by independent human rights observers, and the International Committee of the Red Cross (ICRC) conducted 192 visits to 24 permanent places of detention, including prisons and some police stations. The national office of the HRC did not provide information on visits to detention centers.

The ICRC conducted 22 visits to 3 LTTE-controlled prison facilities and 53 visits to 17 LTTE-operated police stations. Credible observers reported that conditions in these prisons were on par with local standards (see section 1.d.).

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, such incidents occurred. There were 1,798 arrests while the emergency regulations were active. The government stated that most of those arrested were released within a few days.

*Role of the Police and Security Apparatus.*—Following the November 17 presidential election, the government eliminated the Ministry of Internal Security and placed control of the 66-thousand-member police force, which includes the 6,000-member paramilitary Special Task Force, under the Ministry of Defense. Senior officials in the police force handle complaints against the police, as does the civilian-staffed National Police Commission (NPC). Few police officers serving in Tamil majority areas were Tamil. These officers generally did not speak Tamil or English, which increased the level of misunderstanding and distrust.

Impunity, particularly for cases of police torture, was a severe problem. For example, on October 3, Inspector General of Police Chandra Fernando refused the NPC's recommendation to suspend or indict 96 police officers for acts of torture. By year's end 61 of those officers had been reprimanded and transferred to other stations, and

the 35 others were removed or had left the police. Several NGOs claimed that corruption was also a problem in the police force.

For example, on October 25, following the arrests of 25 prostitutes and the 2 men who operated the brothel that housed them, the deputy inspector general (DIG) of police responsible for Nugegoda ordered the Assistant Superintendent of Police (ASP), who led the raid, to release all of those arrested. The ASP refused, processed the arrested persons, and complained to higher authorities. In the ensuing investigation, authorities learned that the DIG received \$6 thousand (approximately SLR 613 thousand) per month to allow the brothel to operate. At year's end authorities had not charged the DIG, and no action was taken against him.

The NPC, composed entirely of civilians, was authorized to appoint, promote, transfer, discipline, and dismiss all police officers, except for the inspector general of police. The NPC also has the power to establish procedures to investigate public complaints against the police. In practice, however, the NPC devolved responsibility for discipline of less senior police officers to the inspector. During the year the NPC handled 187 cases of police torture. Criminal proceedings were initiated in 42 cases, while 86 others were closed due to insufficient evidence. On November 22, the 3-year term of the NPC lapsed. By year's end the government had not appointed new commissioners to the NPC.

*Arrest and Detention.*—Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours, but in practice, detained persons generally appeared within a few days before a magistrate. A magistrate may authorize bail for bailable and many nonbailable offenses or may order continued pretrial detention for up to three months or longer. Police do not need an arrest warrant for certain offenses, such as murder, theft, robbery, and rape. In the case of murder, the magistrate must remand the suspect, and only the high court may grant bail. In all cases, suspects have the right to legal representation. Counsel is provided for indigent defendants in criminal cases before the high court and the courts of appeal, but not in other cases.

On August 18, following the assassination of the foreign minister, parliament approved Emergency Regulations, giving power of arrest to members of the armed forces, who were required to turn suspects over to the police within 24 hours. Individuals arrested under the Emergency Regulations may be detained for up to a year without trial.

In the majority of cases in which security force personnel may have committed human rights abuses, the government had not identified those responsible or brought them to justice. Human rights organizations noted that some judges were hesitant to convict on cases of torture because of a 7-year mandatory sentence for committing torture. There was no witness protection program. According to human rights organizations, obtaining medical evidence was difficult, as there were only 25 forensic specialists, and medical practitioners untrained in the field of torture assessment examined most torture victims. In some cases doctors were intimidated by police, making accurate medical reporting on torture victims difficult.

The HRC investigated the legality of detention in cases referred to it by the Supreme Court and by private citizens. There were no reports of political detainees.

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

The president appoints judges to the Supreme Court, the high court, and the courts of appeal. A judicial service commission, composed of the chief justice and two supreme court judges, appoints and transfers lower court judges. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the president and the parliament.

*Trial Procedures.*—In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them, and they have the right to counsel and the right to appeal. The government provides counsel for indigent persons tried on criminal charges in the high court and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition the legal aid commission offered legal aid to assist those who could not afford representation; however, some sources reported that its representatives extorted money from beneficiaries. There are no jury trials in cases brought under the Prevention of Terrorism Act (PTA). Defendants are presumed innocent, and confessions obtained by various coercive means, including torture, are inadmissible in all criminal proceedings except PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants may spend up to 18 months in prison on administrative order waiting for their

cases to be heard. Once their cases came to trial, decisions were made relatively quickly.

Despite the law calling for court proceedings and other legislation to be available in English, Sinhala, and Tamil, most court proceedings outside of Jaffna and the northern parts of the country were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north were in Tamil and English. While Tamil-speaking judges existed at the magistrate level, only four high court judges, one appeals court judge, and one supreme court justice spoke fluent Tamil. Few legal textbooks existed in Tamil, and the government had not complied with legislation requiring that all laws be gazetted and published in English, Sinhala, and Tamil.

In August 2004 the UN Human Rights Committee (UNHRC) found that Nallaratnam Singarasa's right to a fair trial had been violated when in 1993 he was tortured and forced to put his thumb print on a confession that he could not read. The UNHRC called for his release or retrial and gave the government 90 days to respond. On February 2, the government replied that the law does not provide for release or retrial after the conviction is affirmed by the high court. At year's end Singarasa remained in prison, and his legal team was preparing a fundamental rights case for the Supreme Court.

In 2003 the Supreme Court convicted Tony Fernando on a contempt of court charge for both filing numerous motions before the court and for raising his voice. Fernando was sent to jail the same day only to be released more than eight months later. Fernando was never given the opportunity to consult a lawyer, prepare a defense, or file an appeal. On March 31, the UNHRC found that the government was in breach of its obligations under the International Covenant on Civil and Political Rights and ordered the government to enact legislative changes to ensure that similar violations did not occur again, as well as compensation for Fernando (see section 2.a.). At year's end the government had taken no action, and Fernando had yet to receive any compensation.

The government permits the continued existence of certain aspects of personal laws discriminating against women in regard to age of marriage, divorce, and devolution of property (see section 5).

During the year the LTTE continued to operate its own court system. The LTTE demanded that all Tamil civilians stop using the government's judicial system and rely only on the LTTE's legal system. Credible reports indicated that the LTTE used the threat of force to back this demand.

The LTTE's legal system is composed of judges with little or no legal training. LTTE courts operated without codified or defined legal authority and essentially as agents of the LTTE rather than as an independent judiciary. On September 7, the LTTE arrested three police officers from the National Child Protection Agency (NCPA) when they entered LTTE-controlled territory while pursuing a suspect. A LTTE judge in Kilinochchi remanded the men for trial on unspecified charges. At year's end the officers remained in LTTE custody, and no trial date was given.

*Political Prisoners.*—There were no reports of government-held political prisoners. The LTTE reportedly held a number of political prisoners; however, the number was impossible to determine because of the secretive nature of the organization, and the LTTE refused to allow the ICRC access to these prisoners (see section 1.c.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for the right to privacy, and the government generally respected this provision in practice; however, it infringed on citizens' privacy rights in some areas. Police generally obtained proper warrants for arrests and searches conducted under ordinary law. Following grenade attacks on security forces in the north and east during the summer, cordon and search operations were regularly conducted on nearby houses for 10 days after each attack.

The LTTE routinely interfered with the privacy of citizens by maintaining an effective network of informants.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—The LTTE routinely used excessive force in the war, including attacks targeting civilians. Since the peace process began in 2001, the LTTE has engaged in targeted killings, kidnapping, hijackings of truck shipments, and forcible recruitment, including of children.

There were regular reports that the LTTE expropriated food, fuel, and other items meant for internally displaced persons (IDPs) from both the conflict with the government and the December 2004 tsunami.

During the year there were credible reports that LTTE killed 68 members of the police and military, more than 106 members of anti-LTTE Tamil paramilitary groups, LTTE cadres loyal to the Karuna faction, alleged Tamil informants for the

security forces, and civilians. The LTTE targeted both current and former members of anti-LTTE Tamil political parties. During the year 18 current and past anti-LTTE Eelam People's Democratic Party (EPDP) members were killed. Credible sources indicated that the LTTE killed 45 members of the breakaway military leader Karuna's group. There was also credible evidence that the LTTE killed 15 members of the military intelligence apparatus in a targeted campaign.

On May 31, two gunmen on a motorcycle shot and killed Major Nizam Muthalif, commanding officer of the 1st Intelligence Battalion, while his car was stopped at a traffic light in Colombo. The army accused the LTTE of the killing.

On August 12, a suspected LTTE sniper shot and killed Foreign Minister Lakshman Kadirgamar at his residence. The government accused the LTTE of carrying out the killing, a charge the LTTE denied. At year's end the case remained under investigation.

On October 9, 30 armed LTTE cadres abducted 7 civilians (2 Sinhalese, 5 Muslim) while they were collecting firewood. The LTTE demanded a ransom of approximately \$347 (SLR 35 thousand) each. All seven were released after a single payment was made by their families.

On December 4, the LTTE detonated a claymore mine killing 12 army personnel on patrol in Jaffna.

On December 23, the LTTE attacked naval vehicles in Mannar with 2 claymore mines, killing 14 navy personnel.

On December 27, the LTTE attacked a bus full of soldiers with a claymore mine, killing 10. No arrests were made in any of these attacks.

Gunmen from Karuna's paramilitary group allegedly killed 27 LTTE cadres, including E. Kausalyan, the LTTE political leader for Batticaloa, and Sebastiampillai Jeyachandran, the LTTE political leader for Trincomalee. Karuna's group was believed also to have killed 20 civilians, including the April 15 killing of Thirukkivil divisional secretary A.K. Thavaraja and the June 29 killing of newspaper distributor Arasakumar Kannamuthu (see section 2.a.). There were reports that the government provided protection and military aid to Karuna and his cadres to assist them in their fight against LTTE cadre. The government denied any connection to Karuna and his cadres.

Landmines were a serious problem in Jaffna and the Vanni region in the northern part of the country and, to some extent, in the east (see section 5). Landmines, booby traps, and unexploded ordnance posed a problem to resettlement of IDPs and rebuilding. The government reported seven mine-related deaths and four mine-related injuries, all of which occurred when persons crossed into clearly marked hazard areas. Some humanitarian demining operations in the north were suspended due to increasing violence and had not resumed by the end of the year.

The LTTE forcibly recruited 543 children during the year (see section 6.d.). However, the LTTE also released 202 children, at least 96 of whom were again recruited. There were intermittent reports of children as young as eight years escaping from LTTE camps.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet. Individuals could criticize the government without fear of reprisal. The Emergency Regulations, enacted on August 18, allow the government to stop the publication, distribution, showing, performance or broadcast of any book, magazine, newspaper, poster, movie, play, song, radio or television program that it finds likely to cause public disorder; however, it did not enact any of these provisions during the year.

Although the government owned the country's largest newspaper chain, two major television stations, and a radio station, private owners operated a variety of independent, privately owned newspapers, journals, and radio and television stations. Several foreign media outlets operated in the country. Most independent media houses freely criticized the government and its policies. The government imposed no political restrictions on the establishment of new media enterprises.

There were reports that journalists, especially those in the eastern part of the country, practiced self-censorship due to pressure from both the security forces and the LTTE. In its preliminary report on the November 17 presidential election, the EUEOM reported that government-owned media gave biased coverage in favor of the Sri Lankan Freedom Party candidate, Mahinda Rajapaksa. In its final report on the April 2004 election, the EUEOM reported the government-owned media displayed an evident bias towards the president's United People's Freedom Alliance (UPFA) coalition and disregarded its duty to provide equitable and fair coverage of the election contestants.

On March 28, police raided the Colombo premises of the English-language weekly *Sunday Leader*, known for its investigative reporting. Reporters Without Borders quoted the weekly's publisher, Lasantha Wikramatunga, as saying that police did not have a warrant and that the search was part of the government's ongoing harassment of the weekly.

On July 26, a senior defense correspondent for *the Sunday Leader* reported that President Chandrika Kumaratunga threatened to use the Official Secrets Act (OSA) against him for his critical reporting on government plans to purchase defense equipment from a foreign government. The OSA allows the minister of defense to prohibit access to certain locations and facilities, and to bar photography and reporting about secret information. Under the law, those convicted of gathering secret information can be subject to a prison term of up to 14 years.

On June 2 and September 13, members of the LTTE allegedly threw grenades at the Telo-operated television retransmission station in Vavuniya district.

On August 20 and 29, unknown assailants threw grenades at the Colombo printing and advertising offices of the pro-LTTE newspaper *Sudar Oli*, killing a security guard on August 20. Some press coverage of the incident speculated that members of the Janatha Vimukthi Peramuna (JVP) were responsible for the incident.

On November 17, in accordance with the law, the independent election commission took control of government-owned television and radio until the declaration of election results.

There were no developments in the December 2004 attacks on the Tamil daily *Thinakkural* or the MTV/MBC transmitter.

The LTTE tightly restricted the print and broadcast media in areas under its control. There were also reports of LTTE intimidation of Colombo-based Tamil journalists, and self-censorship was common for journalists covering LTTE-controlled areas. On August 12, unknown gunmen shot and killed journalist Relangi Selvarajah and her husband in Colombo. Selvarajah hosted a popular Tamil language program highly critical of the LTTE. Her husband was an ex-member of the PLOTE paramilitary group.

On June 29 and September 30, news agents distributing the *Eelanatham Batticaloa* newspaper were shot and killed, allegedly by members of the Karuna faction of the LTTE. On September 10, security forces blocked distribution of the newspaper into government controlled areas. *Eelanatham Batticaloa* was the only newspaper published in the LTTE-held area of Batticaloa Amparai.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly, and the government generally respected this right in practice; however, some restrictions existed.

The Emergency Regulations enacted on August 18 give the president the power to restrict meetings, assemblies and processions.

The law states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled; however, the government generally granted permits for demonstrations, including those by opposition parties and minority groups.

On May 9, police and security forces fired into a crowd of rock-throwing protesters, killing 1 and injuring 15 in Batticaloa District. The estimated crowd of 500 was protesting the establishment of a new checkpoint.

On June 10, police broke up a political protest in Colombo using tear gas, water cannons, and baton charges when protesters blockaded the presidential residence.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice; however, some restrictions existed, such as those under the Emergency Regulations.

The LTTE did not allow freedom of association in the areas it controlled and reportedly used coercion to make persons attend its rallies.

*c. Freedom of Religion.*—The law accords Buddhism a foremost position, but it also provides for the right of members of other faiths to practice their religions freely, and the government generally respected this right in practice. There is no state religion; however, the majority of citizens were followers of Buddhism, and this at times adversely affected the religious freedom of others.

Foreign clergy may work in the country, but the government sought to limit the number of foreign religious workers given temporary work permits. Permission usually was restricted to denominations registered with the government.

During the year there were at least 15 confirmed reports of assault on Protestant and Catholic churches and church members by Buddhist mobs, often led by Buddhist monks. Village police were reluctant to pursue Buddhist monk agitators out of deference for their position. On at least three occasions, police charged Christian clergy with breaching the peace by holding religious services. There were numerous



reports during the year of police failing to act when given prior notice of church attacks, and to be slow to respond after they occurred.

On May 1, a mob that reportedly included a Buddhist monk attacked the Zion Prayer Center in Balapitiya, in Galle District. The pastor's wife and two other women were seriously injured in the attack, and furniture and the electric sound system were damaged. The pastor, who was away from the prayer center at the time of the attack, filed a complaint that was referred to the Mediation Board. At year's end no further action had been taken.

On June 5, police did not investigate initially when an Assembly of God pastor in Ambalangoda in Galle District complained of harassment by local villagers. On June 6, 30 villagers attacked the pastor, his brother, and an associate pastor, and of whom required hospitalization. When the pastor returned from the hospital, he found a Buddha statue placed on his vandalized property. While six of the attackers were arrested, all were free on bail at year's end awaiting trial.

On November 18, unknown assailants threw 2 grenades in the Akkaraipattu Jummah Mosque, killing 4 and injuring 18 during morning prayers. The LTTE denied allegations that it had detonated the grenades as punishment against Muslims for defying the LTTE sponsored election boycott.

Most Muslims expelled by the LTTE since 1990 remained displaced. During the year the LTTE continued its intimidation and extortion of Muslims in the east.

It appeared that attacks by the LTTE against Muslims were not religiously motivated but were instead part of an overall strategy to clear the north and east of persons not sympathetic to the cause of an independent Tamil state. The LTTE made some conciliatory statements to the Muslim community, but most Muslims viewed the statements with skepticism.

*Societal Abuse and Discrimination.*—There were instances of societal violence and harassment against members of the Christian community. There were no reported cases of anti-Semitism against the Jewish community, which numbered less than 100.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to the country," and the government generally respected these rights in practice; however, during the year it restricted the movement of Tamils. The war with the LTTE prompted the government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after dark. Tamils were still required to present special passes for fishing and transiting through high security zones in the north and the east. While Tamils were no longer required to obtain police passes to move around the country, they were frequently harassed at checkpoints.

Following the killing of Foreign Minister Kadirgamar on August 12, security forces closed the crossing between LTTE and government-controlled areas in the northeast for several days.

Limited access continued to certain areas near military bases and high security zones, defined as areas near military emplacements, camps, barracks, or checkpoints where civilians could not enter. High security zones extended up to a four-kilometer radius from the fences of most military camps. Some observers claimed the high security zones were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna, where the zones have displaced more than 30 thousand families and occupied over 60 square kilometers, almost 20 percent of the usable land in the peninsula. In August 2004 the government lessened restrictions at one site in Chavakachcheri and allowed farmers and their families to return to their land; nevertheless, the general public was still denied access to this area and all other high security zone areas.

*Internally Displaced Persons (IDPs).*—According to the UN High Commissioner for Refugees (UNHCR), as of July 13, 132 conflict IDPs had returned to their places of origin, leaving approximately 339 thousand IDPs displaced by the conflict. There were 268 camps for those displaced by ethnic conflict, and during the year 68,457 persons were in welfare centers, and 270,767 were staying with friends or relatives. According to various sources, approximately 50 thousand IDPs, primarily Tamils, were unable to resettle as a result of the high security zones. The UNHCR found sexual abuse to be endemic in IDP camps and engaged in a number of initiatives with local and international NGOs to address the problem. According to the UNHCR, 2,349 Tamil refugees had returned from India. The government began a program to relocate more than 200 landless IDP families to state lands in Vavuniya and Kilinochchi districts in the north.

Most of the 46 thousand Muslims expelled in 1990 by the LTTE remained displaced and lived in or near welfare centers. Although some Muslim IDP families returned home, the majority did not move and awaited a guarantee from the government for their safety in LTTE-controlled areas.

The LTTE occasionally disrupted the flow of persons exiting the Vanni region through the two established checkpoints. The LTTE regularly taxed civilians traveling through areas it controlled.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol. The government has not established a system for providing protection to refugees; however, the government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees. There were no reports of *refoulement*, the forced return of persons to a country where they feared persecution.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, multiparty, free, and fair elections held on the basis of universal suffrage; however, recent elections were marred by violence and some irregularities.

*Elections and Political Participation.*—The president, elected in November for a 6-year term, holds executive power, while the 225-member parliament, elected in April 2004, exercises legislative power.

The EUEOM described the November presidential election as generally satisfactory. The LTTE-enforced boycott of the polls and 7 grenade attacks in the north and east marred the election, however, and allowed less than 1 percent of voters in the north to exercise their right to vote. Unlike previous years, there were no deaths or serious injuries on election day, although the inspector general of police refused to release any data on election violence. The EUEOM cited state media bias and misuse of public resources for campaigning as occurring during the campaign.

The EUEOM described the 2004 general election as having been conducted in a democratic matter, with the exception of irregularities in the north and east, where widespread voter impersonation and multiple voting occurred. Several sources cited the LTTE as responsible for the irregularities. The EUEOM reported that more than 2 thousand incidents of election violence occurred, resulting in the deaths of 5 persons and the serious injuring of another 15. Voter turnout was 75 percent. Unlike in previous elections, the government allowed persons living in LTTE controlled areas to vote in cluster polling booths in government-controlled areas.

In October 2004 parliament passed a bill requiring all citizens to present a national identity card to vote. The government provided for a 1-year grace period because many Tamils living in the north, east, and the hill country did not have identity cards. The government allowed local poll supervisors to accept other forms of identification during this period.

There were 11 women in the 225-member parliament, 3 women in the cabinet, and 2 women on the Supreme Court. During the year a woman, Chandrika Kumaratunga, finished serving her second term as president. There were 34 Tamils and 24 Muslims in the 225-member parliament. There was no provision for or allocation of a set number or percentage of political party positions for women or minorities.

The LTTE refused to allow elections in areas under its control, and opposed campaigning by certain Tamil parties in the east during the November presidential elections.

*Government Corruption and Transparency.*—There was corruption in the executive and legislative branches. Transparency International (TI) identified nepotism and cronyism in the appointment of officials to government and state-owned institutions. The tendering and procurement process for government contracts was not transparent, leading to frequent allegations of corruption by the losing bidders. TI also noted that corruption was a problem in high value tender processes and establishing business operations.

From December 2004 until March 31, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) did not operate because it lacked a chairman. At year's end CIABOC had received 2,118 complaints, of which 981 were under investigation.

Some sources described the procedure for prosecution on corruption charges as difficult. On September 20, the government indicted former Deputy Defense Minister Anuruddha Ratwatte on charges of bribery.

There was no law providing for public access to government information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Many domestic human rights NGOs, including the Consortium of Humanitarian Agencies; Home for Human Rights; the University Teachers for Human Rights, Jaffna; the Civil Rights Movement; and the Law and Society Trust monitored civil and political liberties. There were no restrictive regulations governing the activities of local and foreign NGOs, although the government officially required NGOs to include action plans and detailed descriptions of funding sources as part of the initial registration process, and every five years thereafter. Some NGO workers viewed the renewal requirement as an attempt by the government to exert greater control over the NGO sector after previous human rights groups' criticisms. Most NGOs complied with these reporting requirements.

The UN Special Rapporteur on Extrajudicial and Arbitrary Killings Dr. Philip Alston, Amnesty International's Secretary General Irene Khan, and the UN Special Rapporteur on Religious Freedom Asma Jahangir all visited the country during the year. Alston investigated the rise in extrajudicial killings, Khan criticized both parties for their infringements on human rights, and Jahangir expressed concern over attacks on places of worship. All visitors noted that in most cases, perpetrators were not brought to justice.

In August 2004 the government submitted a report to the United Nations Committee Against Torture (UNCAT) as a part of its reporting responsibilities under the Convention Against Torture. On November 10, the UNCAT reviewed the 2004 report and met members of the country's delegation for questions and clarifications on the 2004 report. The UNCAT published its conclusions and seven recommendations on December 17 and called on the country to submit the next periodic report according to schedule.

The government continued to allow the ICRC unrestricted access to detention facilities (see sections 1.c. and 1.d.). The ICRC provided international humanitarian law training materials and training to the security forces. During the year the ICRC also delivered health education programs in LTTE-controlled areas in the north and east (see section 1.g.).

The HRC by statute has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. However, according to many human rights organizations, the HRC often was not as effective as it should have been. The HRC did not have enough staff or resources to process its caseload of 16,305 pending complaints, and it did not enjoy the full cooperation of the government. The HRC had a tribunal-like approach to investigations and declined to undertake preliminary inquiries in the manner of a criminal investigator.

In June 2004 the HRC established a torture prevention monitoring unit in its headquarters and three of its regional offices to implement its zero-tolerance torture policy. HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. To ensure its sustainability, HRC urged the treasury to cover costs of the Torture Prevention Monitoring Unit.

During the year there were instances of interference with HRC investigations. On October 12, the HRC main office was ransacked by unknown parties. At year's end police continued their investigation. In June 2004 HRC officers attempting to investigate a complaint of torture were harassed and intimidated by police officers at the Paiyagala police station in Kalutara District. In September 2004 a police officer assaulted HRC officer Ruwan Chandrasekera, who was investigating a complaint at the Jaffna police station (see sections 1.c. and 1.d.). The case, scheduled to be heard in November, was delayed indefinitely because Chandrasekera relocated to Canada.

In July 2004 the LTTE set up the Northeast Secretariat of Human Rights (NESOHR). Since its inception, NESOHR received more than 400 complaints ranging from land disputes to child recruitment complaints. Some groups questioned NESOHR's credibility because of its close ties to the LTTE. On November 13, NESOHR arranged the return of 26 child soldiers to coordinate with former Amnesty International president Ian Martin's visit to Kilinochchi.

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

The law provides for equal rights for all citizens, and the government generally respected these rights in practice; however, there were instances where gender and ethnic based discrimination occurred.

*Women.*—The law prohibits domestic violence, but it was not strictly enforced. Sexual assault, rape, and spousal abuse continued to be serious and pervasive problems. Amendments to the law introduced in 1995 specifically addressed sexual abuse and exploitation and modified rape laws to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offense only in cases of spouses living under judicial separation. While the law may ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and the judiciary was necessary. The Bureau for the Protection of Children and Women received 1,314 complaints of violent crimes against women.

At year's end a trial was ongoing in the case of two policemen who in 2003 attempted to rape a Mrs. Selvarajan in Uyilankulam in Mannar district.

According to the Bureau for the Protection of Children and Women, there were 1,081 reported incidents of rape. The bureau indicated that 692 of the victims were below the age of 18. During the year 36 police stations received rape victim assistance training. Services to assist victims of rape and domestic violence such as crisis centers, legal aid, and counseling were generally limited.

Prostitution was illegal but occurred during the year. Some members of the police and security forces reportedly participated in or condoned prostitution. Although laws against procuring and trafficking were strengthened in 1995, trafficking in women for the purpose of forced labor occurred (see section 5, Trafficking).

Sexual harassment is a criminal offense carrying a maximum sentence of five years in prison; however, these laws were not enforced.

The law provides for equal employment opportunities in the public sector; however, women had no legal protection against discrimination in the private sector, where they sometimes were paid less than men for equal work, often experienced difficulty in rising to supervisory positions, and faced sexual harassment. Even though women constituted approximately half of the formal workforce, according to the Asian Development Bank (ADB), the quality of employment available to women was less than that available to men, as the demand for female labor was mainly for casual and low-paid, low-skill jobs in the formal and informal sectors.

In December 2004 UNCHR launched a media campaign to promote awareness of sexual and gender-based violence, including sexual harassment in the workplace, violence against women and children, and domestic abuse.

Women have equal rights under national, civil, and criminal law; however, questions related to family law, including divorce, child custody, and inheritance were adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women is 18 years, and there was no provision for marriage at an earlier age with parental consent except in the case of Muslims, who may follow their customary marriage practices and marry at 15. Women were denied equal rights to land in government-assisted settlements, as the law does not institutionalize the rights of female heirs. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination.

*Children.*—The law requires children between the ages of 5 and 14 to attend school, and the government demonstrated its commitment to children through extensive systems of public education and medical care. Approximately 85 percent of children under the age of 16 attended school. Education was free through the university level. Health care, including immunization, was also free.

Many NGOs attributed the problem of exploitation of children to the lack of law enforcement rather than inadequate legislation. Many law enforcement resources were diverted to the conflict with the LTTE, although the police's Bureau for the Protection of Children and Women conducted investigations into crimes against children and women. Following the December 2004 tsunami, the National Child Protection Agency (NCPA) launched a successful awareness campaign to protect orphaned or displaced children from pedophiles.

Under the law the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also broadens the definition of child abuse to include the involvement of children in war. The NCPA included representatives from the education, medical, police, and legal professions and reported directly to the president. During the year the Bureau for the Protection of Children and Women received 2,070 complaints of violent crimes against children.

The government pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalties for pedophilia range from 5 to 20 years' imprisonment and an unspecified fine. During the year 19 cases of pedophilia were brought to court and were pending at year's end.

Child prostitution was a problem in coastal resort areas. The government estimated that there were more than two thousand child prostitutes in the country, but private groups claimed that the number was as high as six thousand. Citizens committed much of the child sexual abuse in the form of child prostitution; however, some child prostitutes were boys who catered to foreign tourists. Some of these children were forced into prostitution (see section 5, Trafficking). The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation and worked with local NGOs that provided shelter. The tourist bureau conducted awareness-raising programs for at-risk children in resort regions prone to sex tourism.

The LTTE used child soldiers and recruited children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as eight years of age, escaped LTTE camps and surrendered to the military or the SLMM. Credible reports indicated that in July the LTTE increased recruiting efforts, particularly in the east (see section 1.g.). Credible sources reported that there were more than 543 cases of forcible child recruitment by the LTTE. These sources also reported that more than 1,339 children remained in LTTE custody at year's end. Several sources reported that the LTTE continued to obstruct the 2003 action plan between UNICEF and the LTTE on the demobilization and rehabilitation of child soldiers. Several sources reported that the LTTE used intimidation or bribes to facilitate recruitment. Some senior LTTE officials claimed that all child soldiers were volunteers.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a point of origin and destination for trafficked persons, primarily women and children trafficked for the purposes of forced labor and sexual exploitation. The country was a source for trafficked women. Some women were trafficked under the guise of legitimate employment to Lebanon, Saudi Arabia, Kuwait, the United Arab Emirates, Bahrain, and Qatar for the purpose of coerced labor and sexual exploitation. A smaller number of Thai, Chinese, and Ethiopian women were trafficked to the country for commercial sexual exploitation. Women and children were trafficked internally for domestic and sexual servitude. Boys and girls were victims of commercial sexual exploitation by pedophiles in the sex tourism industry.

The legal penalties for trafficking in women include imprisonment for 2 to 20 years and a fine. For trafficking in children, the law allows imprisonment of 5 to 20 years and a fine.

Government programs to monitor immigration with computer programs designed to identify suspected traffickers or sex tourists continued, as did a cyberwatch project to monitor suspicious Internet chat rooms.

During the year authorities arrested six airport employees for providing false travel documents or otherwise assisting in trafficking.

Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere, a domestic NGO, estimated that there were 6 thousand male children between the ages of 8 and 15 years engaged as sex workers at beach and mountain resorts. Some of these children were forced into prostitution by their parents or by organized crime.

The NCPA has adopted, with International Labor Organization (ILO) assistance, a comprehensive national plan to combat the trafficking of children for exploitative employment. With the NCPA, police began work on children's issues, including trafficking in children.

The government established rehabilitation camps for trafficking victims and initiated awareness campaigns to educate women about trafficking; however, most of the campaigns, with support from the Bureau of Foreign Employment, were conducted by local and international NGOs.

*Persons with Disabilities.*—The law forbids discrimination against any person on the grounds of disability; however, there were instances of discrimination against the disabled in the areas of employment, education, and provision of state services. The law does not mandate access to buildings for persons with disabilities, and such facilities were rare. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The government also provided some financial support to NGOs that assisted persons with disabilities. Such assistance included subsidizing prosthetic devices, making purchases from suppliers with disabilities, and registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services selected job placement officers to help the estimated 200 hundred thousand work-eligible persons with disabilities.

ities find jobs. Despite these efforts, persons with disabilities faced difficulties because of negative attitudes and societal discrimination.

*National/Racial/Ethnic Minorities.*—There were approximately one million Tamils of Indian origin, the so-called hill, tea estate, or Indian Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. In the past approximately 300 thousand of these persons did not qualify for citizenship in any country and faced discrimination, especially in the allocation of government funds for education. In 2003 parliament passed a bill granting full citizenship to more than 460 thousand tea estate Tamils. In August 2004 UNHCR began awareness campaigns to alert Tamils to the new legislation and by year's end had registered approximately 276 thousand persons, while 192 thousand estate Tamils remain unregistered.

Both local and hill Tamils maintained that they suffered longstanding systematic discrimination in university education, government employment, and in other matters controlled by the government. According to HRC, Tamils also experienced discrimination in housing.

*Indigenous People.*—The country's indigenous people, known as Veddas, numbered fewer than one thousand. Some preferred to maintain their traditional way of life and are protected by the law. There are no legal restrictions on their participation in the political or economic life of the nation. Some Veddas complained that they were being pushed off their land in protected forest areas.

*Other Societal Abuses and Discrimination.*—The law criminalizes homosexual activity between men and between women, but the law was not enforced. NGOs working on lesbian, gay, bisexual, and transgender issues did not register with the government. During the year human rights organizations reported that police harassed, extorted money or sexual favors from, and assaulted gay men in Colombo and other areas.

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The government respected the legal right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views, but in practice such rights were subject to administrative delays. Nonetheless, approximately 20 percent of the 7-million-person work force nationwide and more than 70 percent of the plantation work force was unionized. In total, there were more than one million union members. Approximately 15 to 20 percent of the non-agricultural work force in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates.

Most large unions were affiliated with political parties and played a prominent role in the political process, although major unions in the public sector were politically independent. In 2003 the Ministry of Employment and Labor registered 168 new unions and canceled the registration of 64 others, bringing the total number of functioning unions to 1,604 by the end of 2003. The Ministry of Employment and Labor is authorized by law to cancel the registration of any union that does not submit an annual report, the only grounds for the cancellation of registration.

Employers found guilty of discrimination must reinstate workers fired for union activities but may transfer them to different locations. Antiunion discrimination is a punishable offense liable for a fine of \$200 (20 thousand SLR).

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to collective bargaining; however, very few companies practiced it. At year's end, approximately 50 companies belonging to the Employers' Federation of Ceylon (EFC), the leading employers' organization, had collective agreements. All collective agreements must be registered at the Department of Labor. Data on the number of registered collective agreements were not available. More than half of EFC's 435-strong membership was unionized.

All workers, other than police, armed forces, prison service, and those in essential services, have the right to strike. By law workers may lodge complaints with the commissioner of labor, a labor tribunal, or the Supreme Court to protect their rights. The president retains the power to designate any industry as an essential service.

The law prohibits retribution against strikers in nonessential sectors; however, in practice employees were sometimes fired for striking.

Under the law, workers in the Export Processing Zones (EPZs) have the same rights to join unions as other workers. While the unionization rate in the rest of the country was approximately 20 percent, the rate within the EPZs was under 10 percent. Fewer than 10 unions were active in EPZs, partially because of severe restrictions on access by union organizers to the zones. Trade unions were formally recognized in 8 out of approximately 200 factories in the EPZs. In a few other factories, management had begun discussions with the unions. There was only one operating collective agreement in the EPZs during the year. Labor representatives alleged that the government's Board of Investment (BOI), which managed the EPZs, including setting wages and working conditions in the EPZs, discouraged union activity. The short-term nature of employment and the relatively young workforce in the EPZs made it difficult to organize.

On March 23, Special Task Force (STF) personnel allegedly threatened Anura Kirithi Rajah, a union organizer for a garment factory in the EPZ. The union president at the same factory reported also receiving a death threat at the same time. On April 11, the BOI intervened to settle the labor dispute.

Labor representatives alleged that the labor commissioner, under BOI pressure, failed to prosecute employers who refused to recognize or enter into collective bargaining with trade unions.

According to the International Confederation of Free Trade Unions, during the year there were some violations of trade union rights in the EPZs. The nonrecognition of trade unions became a contentious issue, in part because of obligations under various multilateral and bilateral trade agreements.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or bonded labor; however, there were reports that such practices occurred. The law does not prohibit forced or compulsory labor by children specifically, but government officials interpreted it as applying to persons of all ages (see section 6.d.). There were credible reports that some rural children were employed in debt bondage as domestic servants in urban households, and there were numerous reports that some of these children had been abused.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. An amendment to the Employment of Women and Youth Act prohibits all other forms of family employment of children below 14. A child activity survey, carried out in 1998 and 1999 by the Department of Census and Statistics, found almost 11 thousand children between the ages of 5 and 14 working full time and another 15 thousand engaged in both economic activity and housekeeping. The survey found 450 thousand children employed by their families in seasonal agricultural work throughout the country.

Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered. There were no reports that children were employed in the EPZs, the garment industry, or any other export industry, although children sometimes were employed during harvest periods in the plantation sectors and in non-plantation agriculture. Sources indicated many thousands of children were employed in domestic service, although this situation was not regulated or documented. Many child domestics reportedly were subjected to physical, sexual, and emotional abuse. Regular employment of children also occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. In 2003 International Labor Organization/International Program for Elimination of Child Labor sponsored a rapid assessment survey on domestic child labor in 5 districts found child domestic workers (under 18 years) in roughly 2 percent of households, but the prevalence of child domestics was much larger.

The NCPA is the central agency for coordinating and monitoring action on the protection of children. The Department of Labor, the Department of Probation and Child Care Services, and the police are responsible for the enforcement of child labor laws. The Bureau of Child Protection reported 16 complaints of child employment during the year. Penalties for employing minors were increased from approximately \$10 (SLR 1 thousand) and/or 6 months' imprisonment to \$100 (SLR 10 thousand) and/or 12 months' imprisonment.

Although the law prohibits forced or compulsory labor by persons of any age, some rural children reportedly have served in debt bondage (see sections 5 and 6.c.).

The LTTE used children as young as age 13 years in battle, and children as young as 8 often were recruited forcibly (see section 5).

A UNICEF-supported action plan sought to restore normalcy to former LTTE child soldiers through release and reintegration. Under this program UNICEF sup-

ported the establishment of a transit center in Kilinochchi for child recruits released by the LTTE.

As required by ILO Convention 182, the government identified a list of 50 occupations considered to be the worst forms of child labor (for children under 18 years). Laws proscribing these worst forms of child labor have not been formulated.

*e. Acceptable Conditions of Work.*—While there is no universal national minimum wage, 38 wage boards established by the Ministry of Labor set minimum wages and working conditions by sector and industry. These minimum wages did not provide a decent standard of living for a worker and family. In late 2003 the Ministry of Labor began increasing the minimum wages of all wage boards by a minimum of 15 percent; however, at year's end this process had not been completed for garment and hotel worker wages.

The law prohibits most full-time workers from regularly working more than 45 hours per week (a 5½-day workweek). New regulations limited the maximum overtime hours to 15 per week. Labor organizers were concerned that the new legislation did not include a provision for overtime with the consent of the worker. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors was inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many workers were unaware or indifferent to the rights and feared that they would lose their jobs if they removed themselves from the work situation.



## WESTERN HEMISPHERE

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### ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy with a population of approximately 76 thousand. In the 2004 parliamentary elections, which observers described as generally free and fair, the United Progressive Party (UPP) defeated the ruling Antigua Labour Party (ALP), and Baldwin Spencer became prime minister. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, problems remained in a few areas:

- allegations of police brutality
- poor prison conditions
- libel suits brought by officials against critical journalists or media outlets
- high-level corruption
- societal discrimination and violence against women
- sexual abuse of children

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the authorities generally respected these prohibitions in practice. Nonetheless, there were occasional reports of police brutality and threatening behavior and allegations of abuse by prison guards.

In June the family of Antonio Smith alleged that after the police detained the 17-year-old for questioning, they beat him and then nearly shot him after Smith attempted to escape. Also in June the family of Lucien Joseph alleged that the police shot him and then beat him after he fell to the ground. In July police reportedly beat 17-year-old Brian Spencer at a police station, then shot him in the back of the leg after he attempted to escape. These incidents were still under investigation at year's end.

*Prison and Detention Center Conditions.*—Prison conditions were poor. Her Majesty's Prison, the country's only prison, held 194 inmates (188 men and 6 women). The prison did not have toilet facilities, and slop pails were used in all 122 cells. Prison staff complained anonymously to the press about the poor conditions, including a reported increase in the number of prisoners who had HIV/AIDS and charges that certain inmates were made into "sex slaves" by other prisoners.

Prison overcrowding was attributed, in part, to a law that went into effect in 2004 that limited the ability of magistrates to grant bail to those accused of certain offenses. This resulted in an increase in the number of people held on remand while awaiting trial. In May 42 persons were reportedly being held on remand. According to the prison superintendent, a shortage of space in the prison required placing some of those held on remand with convicted prisoners.

Female prisoners were held in a separate section and were not subject to the same problems encountered in the men's prison.

Juveniles were held with adult inmates. In April the minister of justice complained publicly that keeping juvenile offenders with the adult prison population both broke the prison's own rules and placed the juveniles at risk.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred.

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

*Role of the Police and Security Apparatus.*—Security forces consist of a police force and the small Antigua and Barbuda Defense Force. The police force comprises 690 officers, 125 of whom are part of the country's fire brigade. In May amid rumors that the new administration wanted to clean up the police force, the prime minister ordered 20 officers, including the former police commissioner, to take forced leave. The government named a new police commissioner at that time. No official explanation was provided for these actions.

*Arrest and Detention.*—The law permits police to arrest without warrant persons suspected of committing a crime. Criminal defendants have the right to a prompt judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention. Criminal detainees were allowed prompt access to counsel and family members. The bail system was recently modified to require those accused of more serious crimes to appeal to the High Court for bail, taking this responsibility away from the lower court magistrates.

There were no reports of political detainees.

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

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The first level is the magistrate's court, followed by the Court of Appeals and the High Court. The constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences.

*Trial Procedures.*—The law provides that criminal defendants should receive a fair, open, and public trial. Trials are by jury. Defendants enjoy a presumption of innocence, timely access to counsel, may confront or question witnesses, and have the right to appeal. In capital cases only, the government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts may reach verdicts quickly, with some cases coming to conclusion in a matter of days.

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

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

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these provisions in practice.

Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion. During the year, however, concerns were raised about possible government efforts to influence news reporting on the government-owned broadcasting service. Members of the government also made statements and took actions that potentially could limit freedom of speech.

The International Press Institute (IPI), in its 2004 year-end report, criticized the government for appearing to seek to influence the government-owned media. The IPI also noted there was continued tension between the government and certain media outlets, particularly ZDK Radio, which is owned by the family of Lester Bird, the former prime minister and leader of the opposition ALP. In October 2004 ZDK Radio was taken off the air briefly for not paying its overdue electricity bill of \$49 thousand (EC\$132 thousand). The ALP complained that the station was taken off the air for politically motivated reasons.

In February a journalist at the government-owned ABS Television criticized the minister of information for attempting to censor the station's news broadcasts. In October the Inter-American Press Association charged that ABS continued to be "a public relations tool for the ruling party."

During the year members of the government took legal action against the media for defamation. In January the minister of information filed suit against ZDK Radio, charging the station with slander and defamation for statements made on one of its talk radio programs. In June Prime Minister Spencer threatened to take legal action to curb what he characterized as the use of talk radio programs for slander and said he would direct the attorney general to "strengthen legislation to deal with sedition and terrorism." In September the director of public prosecutions (DPP) charged Lennox Linton of Observer Radio with defamation for verbally ridiculing the DPP's office on the air. The Association of Caribbean Media Workers criticized government actions to limit press freedoms throughout the year.

In 2004 the former government cited violations of the Telecommunications Act to revoke the license held by the owners of Observer Radio to operate satellite transmission equipment and seized the equipment. At year's end the matter was still before the courts, and the equipment had not been returned.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The police generally issued the required permits for public meetings but sometimes denied them to avert violent confrontations.

The opposition ALP attempted to hold a march protesting several issues during the first week of November, but was denied permission, because the police stated they were unable to provide adequate security as the planned march coincided with the annual independence celebration. The ALP was allowed to stage its protest later in the month.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

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

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

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

*Protection of Refugees.*—Although the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee status or asylum. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

*Elections and Political Participation.*—In the 2004 elections, the opposition UPP won 12 of 17 seats in the House of Representatives and 55 percent of the popular vote. Members of the Commonwealth observer group reported that the elections were free and fair. UPP leader Baldwin Spencer was sworn in as prime minister in March 2004, replacing Lester Bird, whose ALP had held power continuously since 1976.

The Directorate of Gender Affairs participated in workshops to encourage women to become active in politics. Voters elected 1 woman to the 17-seat House of Representatives; there were 2 women appointed to the 17-seat Senate. In addition the speaker of the House of Representatives and the president of the Senate, both appointed positions, were women. There were no women in the cabinet, although two women served as ministers of state.

*Government Corruption and Transparency.*—High-level corruption was a problem, particularly during the former ALP administration. The Spencer administration began numerous high profile corruption investigations following the 2004 election. These investigations hindered the new government because the losing ALP party stripped many government offices of key files and documents. Since coming to power, the Spencer administration implemented an aggressive anticorruption program and passed legislation dealing with corruption and ethics. In March the government brought three counts of conspiracy charges against an advisor to a UPP minister for alleged improper approaches to the government tender board.

In 2004 the Spencer administration passed legislation on government transparency to provide access to government information. At year's end, however, implementation lagged, and the UPP was criticized for not fulfilling its campaign promises regarding transparency.

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

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

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

The law prohibits discrimination based on race, sex, creed, language, or social status, and the government generally respected these prohibitions in practice.

*Women.*—Violence against women, including spousal abuse, was a problem. The Domestic Violence Act prohibits and provides penalties for domestic violence, rape, and other sexual offenses, with maximum sentences (rarely imposed) ranging from 10 years' to life imprisonment. Many women were reluctant to testify against their abusers. Organizations such as the government's Directorate of Gender Affairs sought to increase women's awareness of their rights under the law in cases of domestic violence. The Directorate of Gender Affairs operated a domestic violence program that included training for police officers, magistrates, and judges. The directorate also ran a domestic abuse hot line and worked with a nongovernmental organization (NGO) to provide safe havens for abused women and children.

Violence against women came into sharp focus at the end of October, when Senate President Hazelyn Francis was assaulted and raped in her home. The prime minister vowed to bring the full force of the law against the perpetrator of the crime, and police had identified suspects but not charged anyone by year's end. Francis was also the victim of an attempted robbery at her residence earlier in the year. Francis and other female members of parliament requested personal security details, but the government did not provide any.

The Directorate of Gender Affairs launched an education campaign to "Break the Silence" and in November held a march against domestic violence. Senators Hazelyn Francis and Joanne Massiah, Labor Minister Jaqui Quinn-Leandro, and Dr. Ermina Osoba participated in the march and following candlelight vigil in remembrance of victims who died as a result of domestic violence.

Prostitution is prohibited, but it remained a problem. During the year there were reports of a prostitution ring involving teenagers and young men. There were also a number of brothels that catered primarily to the local population (see section 5, Trafficking).

Sexual harassment is illegal, but it was rarely prosecuted.

According to the Labor Department, there was a high incidence of sexual harassment reported by employees in both the private and public sectors. No information was available whether any cases had been brought to the labor courts.

While the role of women in society is not restricted legally, economic conditions in rural areas tended to limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Women were well represented in the public sector; 54 percent of the public service and more than half the permanent secretaries—the most senior career positions—were female. In addition 41 percent of bar association members were female. There was no legislation requiring equal pay for equal work. Women faced no restrictions involving ownership of property. The Directorate of Gender Affairs was tasked with promoting and ensuring the legal rights of women.

The Professional Organization for Women of Antigua was a networking and resource group for professional women that held seminars for women entering the workforce.

*Children.*—While the government repeatedly expressed its commitment to children's rights, its efforts to protect those rights in practice were limited. The government provided free, compulsory, and universal education for children through the age of 16. However, schools faced many shortages, and parents typically provided desks and chairs. Although shared textbooks were provided, parents often purchased books; parents also provided uniforms. More than 95 percent of school-age children attended school, and most children achieved a secondary education. In June four girls were not allowed to attend their graduation because they were pregnant.

Boys and girls had equal access to health care and other public services.

Child abuse remained a problem. The press reported regularly on the rape and sexual abuse of children, including the gang rape of a 15-year-old girl in May. This incident led a local NGO to call for the country to address the issue of adults preying on children for sex. Adult men having regular sexual relations with young girls was also a problem. According to one regional human rights group, the girls were often the daughters of single mothers with whom the perpetrators also had regular sexual relations. A case in which a 40-year-old man was having a long-term rela-

tionship with a young girl received considerable attention during the year. It came to public awareness when neighbors alerted police to the fact that the man and girl were living together as a couple. According to press reports, police failed to take action. A spokesperson for the government's Citizens Welfare Division stated that police routinely ignored such cases because they considered them to be consensual and not criminal acts.

*Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. Although there were no reports that persons were trafficked from or within the country, there were a number of brothels staffed mostly by women from the Dominican Republic. After complaints by local religious leaders, authorities raided four brothels in August, arrested 70 alleged prostitutes and clients, and deported those working or present illegally back to the Dominican Republic, Trinidad, Jamaica, and Guyana.

*Persons with Disabilities.*—There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Although the constitution contains antidiscrimination provisions, no specific laws prohibit discrimination against, or mandate accessibility for, persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to associate freely and to form labor unions. Approximately 75 percent of workers belonged to a union. During the year the owner of Caribbean Star Airlines, based in the country, fired nine pilots and five stewardesses who had organized a union. At year's end the matter was before the Industrial Relations Court.

*b. The Right to Organize and Bargain Collectively.*—Labor organizations were free to organize and bargain collectively. The Labor Code applied equally to workers in the country's free trade zones.

The Labor Code provides for the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, petroleum, health, and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, strikes are prohibited under penalty of imprisonment. Because of the delays associated with this process, unions often resolved labor disputes before a strike was called. In addition an injunction may be issued against a legal strike when the national interest is threatened or affected. The International Labor Organization's Committee of Experts repeatedly requested the government to amend certain paragraphs of the Industrial Courts Act and the extensive list of essential services in the Labor Code, asserting that these provisions excessively limit the right to strike.

*c. Prohibition of Forced or Compulsory Labor.*—The law forbids slavery and forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. In addition persons under 18 years of age must have a medical clearance to work and may not work later than 10 p.m. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforced this law. The labor commissioner's office also had an inspectorate that investigated exploitative child labor matters.

*e. Acceptable Conditions of Work.*—The Labor Code provides that the minister of labor may issue orders, which have the force of law, to establish a minimum wage. In 2002 upon recommendation from a tripartite committee of representatives from employers, employees, and government, the minister of labor set the minimum wage at \$2.22 (EC\$6.00) an hour for all categories of labor. The minimum wage provided a barely adequate standard of living for a worker and family, and in practice the great majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek was 40 hours in 5 days. Laws provide for overtime work in excess of the standard workweek; excessive overtime is not specifically prohibited.

Although the government had not developed occupational health and safety laws or regulations, apart from those regarding child labor, a section of the Labor Code includes some provisions regarding occupational safety and health. While not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

## ARGENTINA

Argentina is a federal constitutional republic with a population of approximately 39.5 million. In 2003 voters elected President Nestor Kirchner in free and fair multiparty elections; on October 23, national legislative elections were held. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- instances of killings and brutality by police and prison officials
- overcrowded, substandard, and life-threatening prison and jail conditions
- arbitrary arrest and detention
- prolonged pretrial detention
- domestic violence and sexual harassment against women
- trafficking in persons for sexual exploitation and labor
- child labor

In June the Supreme Court ruled that the 1986 and 1987 amnesty decrees were unconstitutional, opening the way for the resumption of trials against hundreds of former military and security force personnel, whose trials had been halted when the decrees were issued. Although significant problems remained, the government moved forward in judicial reform; in August the country's first jury trial was conducted.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, police and prison officers committed killings involving unwarranted or excessive force. The authorities investigated, and, in some cases, detained, prosecuted, and convicted the officers involved.

The Center for Legal and Social Studies (CELS) reported that security forces were responsible for 53 deaths in the greater Buenos Aires area in the first half of the year, a number that included individuals killed in confrontations with security forces during the presumed commission of a crime.

In February in Villa Lugano, the Federal Police (PFA) arrested three police officers, Agent Adrian Bustos, Agent Miguel Angel Cisneros and Corporal Mariano Almiron for killing 14-year-old Camila Arjona. The three police officers were being held in preventive detention pending the beginning of their trial.

In May a court in San Isidro absolved a former police officer in the 1999 shooting death of an unarmed 16-year-old suspect. The superior court denied the prosecutor's appeal.

The investigation continued into the October 2004 deaths of three juvenile detainees in a fire in a Buenos Aires police station. Nine policemen were suspended and remained under investigation at year's end.

On September 22, the superior court of the province of Santiago del Estero ordered that the trial of seven suspects in the 2003 killings of Patricia Villalba and Leyla Bashier Nazar begin. The seven indictees included the former information chief of the province and three provincial police officers; the trial was ongoing at year's end. An investigation of other police officers and former provincial officials in connection with the killings continued.

On January 9, the court sentenced former Buenos Aires provincial police officers Alfredo Fanchiotti and Alejandro Acosta to life imprisonment for the 2002 shooting deaths of demonstrators Dario Santillan and Maximiliano Kosteki. Fanchiotti and Acosta were sentenced to life imprisonment. Three of the five other police officers on trial were found guilty of concealing the crime and sentenced to four years in prison; two other officers received probation for two and three years, respectively.

In September former police officers Marcos Bressan and Martin Alejandro Ferreyra were acquitted for in the 2001 killings of Gaston Galvan and Miguel Burgos.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Judicial proceedings related to killings, disappearances, and torture committed by the 1976–83 military regimes continued (see section 1.e.). In June the Supreme Court ruled the 1986 and 1987 amnesty laws, “Full Stop” and “Due Obedience,” to be unconstitutional, opening the way to restarting suspended judicial proceedings

against hundreds of former military and security force members accused of forced disappearances to recommence.

The under-secretariat for human rights, which maintained the files of the National Commission on Disappeared Persons, received 9,005 claims for financial compensation from families of those who died or disappeared during the military dictatorship.

Judicial authorities continued to investigate cases of kidnapping and illegal adoption by members of the former military regime of children born to detained dissidents. Eighty-one children born to detained and disappeared dissidents and illegally adopted have been identified and made aware of their true backgrounds.

In April three Buenos Aires provincial police officers were sentenced to prison for kidnapping and extorting a local merchant. One received a 14-year prison sentence; the 2 others received sentences of 13½ years in prison.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices and provides penalties for torture similar to those for homicide, some police and prison guards continued to employ torture and brutality. Human rights organizations reported police brutality and occasional torture of suspects. While the government investigated reports of police brutality in prisons, there were few convictions in comparison to the number of complaints.

In another case documented by the independent Buenos Aires Provincial Memory Commission, Cristian Lopez Toledo and Claudio Marquez Lainecker, prisoners at the Buenos Aires provincial prison in La Plata, were tortured with electric shocks after they requested to meet with the Memory Commission during its visit to the prison in August. In the subsequent trial, expert witnesses verified the commission's claims.

*Prison and Detention Center Conditions.*—Prison conditions often were poor and life threatening. The Inter-American Commission on Human Rights stated that “overcrowding, deficient health care, dilapidated and insufficient infrastructure, inadequate nutrition, and ongoing inhumane treatment of detainees . . . triggered violations of human rights” in detention centers. The commission added that violence in various prisons led to death and “serious bodily and psychological harm to inmates.” The CELS 2005 publication *Collapse of the Prison System* cited a Federal Penitentiary Service report indicating that 28.5 percent of the federal penitentiaries were overcrowded and 40 to 45 percent were at capacity. In Buenos Aires Province, 54 percent of the provincial prisons were overcrowded, and 28 percent were at capacity.

In February rioting in the San Martin prison in Cordoba led to the deaths of five prisoners, two guards, and a police officer. In April in the Coronada prison in Santa Fe, prisoners killed 13 other inmates in what was described as a “settling of accounts” between rival gangs. On October 16, 33 prisoners died from inhaling smoke from a fire set in a prison dormitory during a disturbance at the Buenos Aires provincial prison in Magdalena. Victims’ family members claimed the fires were reprisals because some of the prisoners in that dormitory had filed complaints. The Buenos Aires Provincial Memory Commission reported that its inquiry revealed official complicity in the deaths. The report stated that the emergency doors remained locked during the fire and that half the fire extinguishers had expired. The report also stated that guards used force, including firing rubber bullets, to prevent prisoners in neighboring cells from aiding the trapped prisoners.

Overcrowding in juvenile facilities often resulted in minors being held in police station facilities, although separate from adult detainees. Reliable reports indicated that pretrial prisoners often were held with convicted prisoners. In May the Supreme Court upheld a motion brought by CELS on behalf of all prison and jail detainees in the province of Buenos Aires and ordered an end to the detention of minors and sick persons in Buenos Aires police stations. Thereafter all such detainees were sent to the respective juvenile, mental health, or specialized centers. The overall number of adult detainees in police detention facilities in the province of Buenos Aires also decreased from 5,500 to 4,200 during the year.

The government permitted prison visits by local and international human rights observers, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, police occasionally arrested and detained citizens arbitrarily. In the past human rights groups reported difficulties in documenting such incidents because victims were reluctant to file complaints for fear of police retaliation or because of skepticism that police would act.

*Role of the Police and Security Apparatus.*—The PFA under the Interior Ministry has jurisdiction for maintaining law and order in the federal capital and for federal

crimes in the provinces. Additionally, each province has its own police force that responds to a provincial security ministry or secretariat. Individual forces varied considerably in their effectiveness and respect for human rights. Corruption was endemic in some forces, and impunity for police abuses was common.

The most common abuses included extortion of and protection for those involved in illegal gambling, prostitution, and auto theft rings, as well as detention and extortion of citizens under the threat of planting evidence to charge them for crimes. Some police also were involved in drug trafficking. Efforts continued in the province of Buenos Aires to remove and prosecute police for corruption and other offenses. In November the Buenos Aires Province security minister fired 46 police officers under investigation for alleged abuse, corruption, extortion, and unjustified homicide, bringing to 935 the number of officers dismissed, suspended, or under investigation for malfeasance and criminal activity between May 2004 and November 2005. Other trials were pending.

*Arrest and Detention.*—Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that the suspects have committed, or are about to commit, a crime or if they are unable to determine the suspected person's identity. Human rights groups argued that this provision of law was often disregarded.

The law provides a person in detention with the right to a prompt determination of the legality of the detention, which entails appearance before a criminal lower court judge who determines whether to proceed with an investigation. There were frequent delays in this process and in informing detainees of the charges against them, partially due to the fact that the majority of defendants rely on the overburdened public defender system.

The law provides for the right to bail; although the bail system was used, civil rights groups claimed that judges were more likely to order indicted suspects held in preventive or pretrial detention rather than allow suspects to remain free pending their trial.

Detainees were allowed prompt access to counsel, and public defenders were provided for detainees unable to afford counsel, although such access was sometimes delayed due to an overburdened system. Lack of resources for the public defender's office resulted in an excessive caseload for public defense attorneys. Detainees also were allowed access, although not always prompt, to family members.

There were no reports of political detainees.

The law provides for investigative detention for up to two years of indicted persons awaiting or undergoing trial; the period could be extended to three years in certain limited situations. The slow pace of the justice system often resulted in lengthy detentions beyond the period stipulated by law (see section 1.e.). A convicted prisoner usually received credit for time already served. According to the Federal Bureau for Criminal Policies, approximately 65 percent of inmates in federal prisons had been charged but were awaiting the beginning or completion of their trials; CELS reported that the figure in the province of Buenos Aires was 84 percent in 2004. The Nam Qom Toba indigenous community in Formosa Province alleged that some of its members were arbitrarily detained (see section 5).

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, some judges and judicial personnel were inefficient and at times subject to political manipulation. There were credible reports of efforts by members of security forces and others to intimidate the judiciary and witnesses. The system was hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Judges have broad discretion as to whether and how to pursue investigations, contributing to a public perception that many decisions were arbitrary. Allegations of corruption in provincial courts were more frequent than at the federal level, reflecting strong connections between some governors and judicial powers in their provinces.

The judicial system is divided into federal and provincial courts, both headed by a supreme court with chambers of appeal and section courts below it. The federal courts are divided between the criminal courts and economic courts.

Investigations over the last two years of a number of Supreme Court justices by the Impeachment Committee of the Chamber of Deputies concluded in September with the Senate's impeachment of Justice Antonio Boggiano, which followed the impeachment of one justice in 2003 and the resignations of three others in 2004.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. During the investigative stage, defendants can submit questions in writing to the investigating judge. A panel of judges decides guilt or innocence. Federal and provincial courts continued the transition to trials with oral arguments in criminal cases, replacing the old system of written submissions. Although the 1994



constitution provides for trial by jury, implementing legislation has not been passed. Lengthy delays in trials were a problem. There is a provision for counsel for indigents; however, in practice counsel may not always be provided due to a lack of resources. Defendants are presumed innocent and have the right to appeal, as do prosecutors. Minors under the age of 16 cannot be criminally prosecuted.

There is a military court system, which has jurisdiction over military personnel.

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

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

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely. The federal government owns the Telam wire service, a radio network, and a television station. A few provincial governments also owned broadcast media.

Some civil rights organizations and several media claimed that national and provincial government agencies subtly interfered with media freedom and editorial independence, for instance, directing government advertising for political and personal purposes. A report by the nongovernmental organization (NGO) Poder Ciudadano, the local chapter of Transparency International, alleged that there was discriminatory allocation of advertising in national newspapers, noting, for instance, that, although *La Nacion* newspaper had the second largest circulation in the country, it received less government advertising than the daily *Pagina/12*, which had much lower circulation but was widely perceived as supporting government policies.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Although most protests and demonstrations were peaceful, there were violent demonstrations and confrontations with security forces, resulting in injuries and arrests. Security forces occasionally used rubber bullets but more often used tear gas and water cannons to disperse unruly demonstrators.

Demonstrators were detained in several instances, leading to charges that the government was criminalizing protests. Agitators reportedly often inserted themselves into otherwise peaceful demonstrations to provoke confrontations with the police.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The law states that the federal government “sustains the apostolic Roman Catholic faith,” and the government provided the Catholic Church with a variety of subsidies. Other religious faiths were practiced freely.

In order to hold public worship services and obtain tax-exempt status, religious organizations must register with the Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship and report periodically to maintain their status. In September the secretary of religion issued new regulations, following consultations with all the religious groups, which streamlined the registration process for religious groups.

*Societal Abuses and Discrimination.*—Acts of discrimination and vandalism against religious minorities, particularly the Jewish community, continued. The government continued to support a public dialogue to highlight past discrimination and to encourage improved religious tolerance. In July the secretary of religion, together with the Universidad del Salvador and the Latin American Association for the Study of Religions, hosted the Third Latin American Colloquium on Religion and Society; leaders of the Christian, Jewish, Muslim, and indigenous communities attended the colloquium.

The Jewish community was estimated to number between 280 thousand and 300 thousand. There were a number of reports of anti-Semitic acts, including threats against Jewish organizations and individuals. On December 29, in La Plata, a monument honoring former Israeli prime minister Yitzhak Rabin was vandalized. In November fans of a basketball team playing against a team from the Zionist Youth Center of La Plata, chanted anti-Semitic epithets. The most frequent incidents included anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country and the proliferation of anti-Semitic publications in bookshops. Jewish

organizations reported their continued concern but noted that there was no increase in incidents from the previous year.

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

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

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The government signed an agreement with the Office of the UN High Commissioner for Refugees (UNHCR) for a program to resettle at-risk Colombian families; in addition, it maintained an interministerial committee to evaluate refugee and asylum claims. The government accepted refugees for resettlement. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum to 213 persons during the year.

The law also allows the government to provide temporary protection for humanitarian reasons, including family reunification, to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

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

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

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

*Elections and Political Participation.*—In 2003 Nestor Kirchner won a plurality of votes in presidential elections generally regarded as free and fair. On October 23, national and provincial legislative elections were held. At the national level, one-half of the seats in the Chamber of Deputies and one-third of those in the Senate were contested. Observers considered the elections to be free and fair, and there were no claims of fraud by any of the major parties.

Decrees provide that one-third of the members of both houses of congress must be women, a goal achieved through balanced election slates. There were 31 women in the 72-seat Senate and 86 women in the 257-seat Chamber of Deputies. There were two female Supreme Court justices and one woman in the cabinet.

There were no known indigenous, ethnic, or racial minorities in the national legislature, in the cabinet, or on the Supreme Court.

*Government Corruption and Transparency.*—Transparency International's annual index indicated perceptions of a "severe corruption problem" in the country. The government continued to pursue anticorruption measures. In September the Senate impeached Supreme Court Justice Antonio Boggiano, following an investigation by the Chamber of Deputies into accusations of malfeasance in office (see section 1.e.). Prosecutions of a number of former government officials accused of corruption continued. Historically weak institutions and an often ineffective and politicized judicial system made rooting out corruption in any systemic fashion difficult.

The law provides for public access to government information. At the national level, an executive decree requires executive agencies to answer requests for public information within 10 working days. Agencies' compliance generally fell short of this requirement, as few had developed the internal mechanisms necessary to respond efficiently to the requests.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government usually was cooperative and generally responsive to their views.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these provisions in practice.

*Women.*—The law prohibits domestic violence, including spousal abuse, and provides for removal of the abusive spouse from the home, but it does not provide pen-

alties unless the violence involves crimes against "sexual integrity." In this case penalties can be as much as 20 years' imprisonment. Domestic violence against women was a serious problem. In 2004 the Inter American Development Bank estimated that 25 percent of women were victims of domestic violence.

Any person suffering physical or psychological domestic violence may file a formal complaint with a judge or police station, and the law gives family court judges the right to prevent the perpetrator of a violent act from entering the victim's home or workplace. Charges also may be brought in criminal court, which may apply corresponding penalties. However, lack of vigilance on the part of the police and the judicial system often led to a lack of protection for victims.

Public and private institutions offered prevention programs and provided support and treatment for abused women, but there was little transitional housing. The Buenos Aires municipal government operated a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence; however, few other shelters existed.

NGOs stressed that women often did not have a full understanding of their rights or of what actions could be considered punishable offenses. In addition there was a great disparity between urban centers and rural areas with respect to women's awareness of and access to equal rights. Indigenous women particularly were vulnerable due to higher rates of illiteracy and insufficient bilingual educational resources.

The law criminalizes rape, including spousal rape, but the need for proof, either in the form of clear physical injury or the testimony of a witness, often presented problems. The penalties for rape ranged up to 20 years' imprisonment. Although reliable statistics were not available, advocates believed that rape was not uncommon. Women's rights advocates claimed that police, hospital, and court attitudes toward sexual violence victims often re-victimized the individual.

Soliciting for prostitution is generally illegal but did occur. NGOs considered sex tourism a problem but had no estimates of its extent. Trafficking of women to and within the country for prostitution was a problem (see section 5, Trafficking).

Sexual harassment in the public sector is prohibited under laws that impose disciplinary or corrective measures. In some jurisdictions (for instance, in the city of Buenos Aires) sexual harassment may lead to the abuser's dismissal, whereas in others (such as Santa Fe Province), the maximum penalty is five days in prison. No federal law expressly prohibits sexual harassment in the private sector. Sexual harassment occurred, but few complaints were lodged, which specialists believed may be due to a lack of information on existing legal protections.

Although women enjoyed equality under the law, including property rights, they encountered economic discrimination and held a disproportionately higher number of lower paying jobs. Men earned, on average, 38 percent more than women for equivalent work, an imbalance explicitly prohibited by law. Approximately 70 percent of women employed outside the home worked in non-skilled jobs, although more women than men held university degrees. The law provides for prison terms of up to three years for discrimination based on gender.

The National Council of Women carried out programs to promote equal social, political, and economic opportunities for women. The Council worked with the special representative for international women's issues, the Ministry of Labor, and union and business organizations to form the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

*Children.*—Although the government voiced strong commitment to children's rights and welfare, many programs remained underfunded.

Education is free and compulsory for 10 years, beginning at age 5. Although a 2001 government survey reported school attendance rates between 92 percent (at age 5) to 97 percent (ages 13 to 14), an appraisal by the International Bank for Reconstruction and Development stated that of 100 students entering primary school, 84 would enter the seventh grade, and 40 would enter the last year of secondary school. Attendance rates were lowest among children from low-income households. Access to schooling was limited in some rural areas of the country. School enrollment rates for girls were slightly higher than for boys.

There were numerous federal and provincial health care programs for boys and girls on basis of equal access. While such programs were available in all provinces, they tended to be limited to larger urban areas, which made access difficult for children in isolated rural communities.

While child abuse continued to occur and was not uncommon, the government took measures to combat it. The National Council for Children, Adolescents, and the Family instituted a national hot line which children could use to call for advice, make complaints, and report instances of abuse or other rights violations. In the

first quarter of the year, the city of Buenos Aires' call-in service, Linea 102, received almost 1,900 calls, over half of which were for "mistreatment," another significant group for "negligence," and a third large group for family violence. In conjunction with other agencies and organizations, the council also conducted educational and awareness-raising efforts. Prosecutors and police pursued cases of Internet child pornography. Children also were involved in sexual exploitation, sex tourism, and drug trafficking.

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

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

*Trafficking in Persons.*—The law prohibits trafficking in persons for the purpose of prostitution through fraud, intimidation, or coercion, or in the case of minors; however, trafficking occurred. The law also prohibits alien smuggling, indentured servitude, and similar abuses. The law also criminalizes offenses often associated with trafficking, such as kidnapping, forced labor, the use of false documents, and prostitution. Penalties for trafficking range from 1 to 20 years in prison, depending on the nature of the violation and the age of the victim.

Coordination of trafficking detection and antitrafficking prosecution efforts improved. The Federal Office of Victim Assistance (OFAVI), a unit under the federal prosecutor's office, is the lead agency for coordinating antitrafficking efforts. OFAVI coordinates activities with law enforcement agencies, including the Federal Police and the Gendameria, with the Ministries of Justice, Interior, and Foreign Affairs, the national Immigration Service, and the Council for Children, Teenagers, and Family. Although the country's law enforcement officers lacked a clear mandate from political leaders and sufficient resources to pursue aggressively domestic and international traffickers, investigations and arrests increased. The government cooperated on international investigations and worked with Paraguayan and Bolivian authorities on several cases of trafficked women and minors. The government cooperated with international investigations.

Trafficking in persons primarily involved citizens trafficked within the country, mostly from the northern provinces to the central provinces and Buenos Aires, and from Buenos Aires to several southern provinces. To a lesser degree, the country was a destination for victims, principally women and minors from Paraguay and Brazil. The International Organization for Migration (IOM) estimated that 52 percent of the Paraguayan victims of trafficking rings were trafficked into the country, 34 percent of them women under age 18. The groups most at risk were young women and children from impoverished families and broken homes, who were subject to physical and sexual abuse in the home and often abandoned.

Trafficking into forced labor occurred (see section 6.c.).

While there were no official reports on the activities of traffickers, the media reported that traffickers often presented themselves as employment agencies or even as individual recruiters. Traffickers confiscated travel documents to prevent victims from appealing to authorities for protection. Victims, particularly women and girls in prostitution, may be denied contact with the outside world. Victims often were threatened or beaten.

There were no allegations of federal government official involvement in trafficking, and local police and officials suspected of involvement were investigated and prosecuted. In May the criminal court of appeals in San Martin, Buenos Aires, overruled the dismissal by a lower court of a case against the mayor of San Miguel, Claudio Zilocchi, who had been accused of receiving bribes from several brothel owners. The court of appeals ordered the trial to begin. Other indictees included an inspector from San Miguel, the brother of the mayor of San Fernando, and 11 provincial police officers.

Trafficking victims normally were not detained, jailed, or deported, although some who were arrested for prostitution-related crimes may be jailed or deported.

Although the country lacked a comprehensive nationwide policy of victim assistance, the city of Buenos Aires in particular assisted dozens of victims, and most provinces had facilities for victims' assistance, including psychologists to aid victims and witnesses. Some victims qualified for federal government assistance, but most provincial officials were not trained to identify or help victims of trafficking specifically. The IOM assisted with repatriation of foreign victims of trafficking. The Catholic Oblate Sisters also assisted victims, offering such help as emergency shelter and counselling.

The government did not have a comprehensive policy to prevent trafficking, but isolated preventive measures were in place. The government made efforts to improve its effectiveness in combating trafficking, notably in the city of Buenos Aires, where it established a network to conduct information campaigns, outreach, and child victim identification. In addition, the government participated in an Inter-

national Labor Organization (ILO) project to prevent and eliminate commercial sexual exploitation of children in the border region with Brazil and Paraguay.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services, and mandates access to buildings for persons with disabilities; however, the government did not effectively enforce these rights in practice.

Laws mandating greater accessibility to buses and trains for persons with disabilities were not enforced fully.

The National Advisory Committee for the Integration of People with Disabilities, under the National Council for Coordination of Social Policies, has formal responsibility for actions to integrate persons with disabilities.

The government implemented measures aimed at integrating persons with disabilities into the workforce. In August the navy began a program to hire persons with disabilities for appropriate tasks in some of their facilities. In September the City Urban Guard in Buenos Aires, which is charged with preventing and detecting hazardous or criminal situations in public spaces and calling upon security forces to take action, advertised a personnel search to hire persons with disabilities.

*Indigenous People.*—The constitution recognizes the ethnic and cultural identities of indigenous people and states that congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. In practice, indigenous people did not fully participate in the management of their lands or natural resources, in part because laws do not specifically contemplate communal ownership. The National Institute of Indigenous Affairs is the government agency responsible for implementing these provisions.

Observers estimated that the principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—represented less than 5 percent of the national population, with estimates ranging between 1.75 and 5 million persons.

Poverty rates were higher than average in areas with large indigenous populations. Indigenous people had higher rates of illiteracy, chronic disease, and unemployment. The lack of trained teachers hampered government efforts to offer bilingual education opportunities to indigenous people.

Individuals of indigenous descent from the northern part of the country, as well as from Bolivia, Peru, and other Latin American countries, reportedly were subjected frequently to verbal insults because of their dark skin.

Some communities were involved in land disputes with provincial governments and private companies, particularly over questions of natural resource extraction, pollution, and road construction. On August 11, in Salta Province the indigenous communities association Lhaka Honhat filed a motion with the Supreme Court contesting a provincial decree calling for a referendum to grant or deny lands in dispute. The Supreme Court declined to hear the case; in October the referendum was held and passed. In mid-October Lhaka Honhat and federal and provincial government representatives attended a meeting at the Inter-American Commission on Human Rights (IACHR). The indigenous communities requested the adoption of provisional remedies to protect their ancestral lands and asked that the IACHR consider the case, which it agreed to do. On March 1, the Nam Qom Toba community in Formosa Province filed a complaint before the IACHR for multiple violations of human rights by the provincial police and the provincial and national authorities in 2002. The suit contended that 80 community members were tortured and were detained arbitrarily, some for almost two years.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides all workers, with the exception of military personnel, the right to form and join “free and democratic labor unions, recognized by simple inscription in a special register,” and workers exercised this right. An estimated 35 percent of the work force was organized.

Labor groups not affiliated with the General Confederation of Labor contended that the Professional Associations Law provision for legal recognition of only one union per sector conflicts with ILO Convention 87. One of those unions, the Argentine Workers Central, presented this claim to the IACHR in March 2004, and its petition was pending at year’s end.

The law prohibits antiunion discrimination and requires employers to reinstate workers illegally dismissed for union-related activities.

*b. The Right to Organize and Bargain Collectively.*—The law provides unions with the right to negotiate collective bargaining agreements and to have recourse to con-

ciliation and arbitration. The Ministry of Labor, Employment, and Social Security ratifies collective bargaining agreements, which covered roughly 75 percent of the formally employed work force. According to the ILO, the ratification process impeded free collective bargaining because the ministry considered not only whether a collective labor agreement contained clauses violating public order standards but also whether the agreement complied with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year of government refusal to approve any collective agreements under the above criteria.

Unions have the right to strike, although those representing civil servants and workers in essential services are subject to the condition that "minimum services" (undefined) are rendered. Workers exercised this right by conducting legal strikes.

There are no special laws or exemptions from regular labor laws in the three functioning export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5). An investigation into an apparent case of forced labor involving potentially hundreds of Bolivian citizens working in clothing sweatshops in Flores Sur, a neighborhood in the city of Buenos Aires, was underway at year's end. A federal judge declined to review the case, citing lack of jurisdiction, and referred the case to the National Court of First Instance. Some of the workers involved appealed the federal judge's decision, and the case remained pending at year's end.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace and sets the minimum age for employment at 14 years; in rare cases the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 14 and 18 may work in a limited number of job categories and for limited hours if they have completed compulsory schooling, which normally ends at age 15. Legal penalties for employing underage workers ranged from \$350 to \$1,750 (1 to 5 thousand pesos) for each child employed. Provincial governments and the city government of Buenos Aires are responsible for labor law enforcement.

In 2004 the National Commission for the Eradication of Child Labor (CONAETI) estimated that up to 1.5 million children, or 22 percent of the children under the age of 15, worked in some capacity. Most illegal child labor took place in the informal sector, where inspectors had limited ability to enforce the law. Child labor in urban zones included such work as small-scale garment production, trash recycling, street sales, domestic service, and food preparation. Children also were involved in prostitution, sex tourism, and drug trafficking (see section 5).

CONAETI worked with unions and other groups to train rural child labor monitors, and with provincial authorities in the tri-border area with Brazil and Paraguay to address child sexual exploitation. In 2004 congress acknowledged that the country lacked sufficient inspectors and programs to detect child labor or to rescue exploited children and that there were inadequate sanctions against employers for exploiting children. Ministry of Labor statistics indicated that federal and provincial labor inspectors conducted approximately 64 thousand inspections through the end of October. In 44 percent of the inspections, officials detected a violation of some type, typically relating to informally employed workers, for whom employers didn't pay social security and health taxes or insurance.

*e. Acceptable Conditions of Work.*—The monthly national minimum wage was approximately \$215 (630 pesos), which did not provide a decent standard of living for a worker and family. Most workers in the formal sector earned significantly more than the minimum wage. The Ministry of Labor (MOL) is responsible for enforcing legislation related to working conditions. A MOL report based on inspections conducted during the year reported that the informal sector employed 46 percent of the workforce.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime pay is required for hours worked in excess of these limits. The law sets minimums for periods of rest, requiring a minimum of 12 hours of rest to start a new workday. Sundays are holidays, and those required to work on Sundays are paid double. However, laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector.

The law requires employers to insure their employees against accidents at the workplace and when traveling to and from work. Workers have the right to remove themselves from dangerous or unhealthy work situations without jeopardy to continued employment. However, workers who leave the workplace before it has been

proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

## BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy with a population of approximately 320 thousand, not including an estimated 30 thousand illegal Haitians. Prime Minister Perry Christie's Progressive Liberal Party (PLP) regained control of the government after 2002 elections that observers found to be generally free and fair. The civilian authorities generally maintained effective control over security forces.

The government generally respected the human rights of its citizens. The year brought improvement in conditions at Fox Hill Prison, worsening of conditions for persons awaiting trial, and increased concerns regarding the rights of minority Haitians. The following human rights problems were reported:

- poor prison and detention center conditions
- arbitrary arrest and detention
- lengthy pretrial detention and delays in trials
- violence and discrimination against women
- violence against children
- discrimination against persons of Haitian descent

The government improved conditions at Fox Hill prison with regard to prisoner intake and cell assignments, new educational opportunities, new use-of-force guidelines, and a new internal affairs unit.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike previous years, there were no reports that the government or its agents committed arbitrary or unlawful killings, and several past cases were resolved.

In March the coroner's court found that the 2003 killing of a 16-year-old girl by a reserve police officer was unlawful manslaughter. Authorities charged the officer, and the criminal trial continued at year's end. Also in March the coroner's court found that a police officer's 2002 killing of Jermaine Mackey, which led to a riot in the Kemp Road community, was unlawful manslaughter. At year's end criminal prosecution was under way.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, but human rights monitors and members of the public expressed concern over continued instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority (see section 1.d.).

There were no further developments in the February 2004 case of a 19-year-old detainee from Grand Bahama Island who claimed police stripped him, handcuffed him to a tree, and beat him with a metal pipe to extract a confession before charging him with attempted armed robbery.

*Prison and Detention Center Conditions.*—Conditions at Fox Hill prison, the country's only prison, remained harsh. Overcrowding was a major problem. The men's maximum-security block, originally built in 1953 to hold 400 to 600 inmates, held more than 700 of the approximately 1,500 total inmate population. The remaining prisoners were held in remand, and in medium- and minimum-security units that were at intended capacity. The prison remand area, built to hold 300 prisoners awaiting trial, was insufficient to hold the 650 prisoners awaiting trial, leaving many pretrial detainees confined in cells with convicted prisoners in the maximum-security unit. Male prisoners placed in the maximum-security unit were crowded into poorly ventilated cells that generally lacked regular running water, toilets, and laundry facilities. Most prisoners lacked beds, slept on concrete floors, and were locked in small cells 23 hours per day, often with human waste. Maximum-security inmates were allowed outside for exercise four days a week for one hour per day. Inmates complained of inadequate medical care and treatment.

The government attempted to improve conditions at Fox Hill and appointed the chairman of the Prison Reform Commission as prison superintendent. There were

improvements in prisoner intake, cell assignments, and educational opportunities for prisoners. Unlike in past years, new prisoners were no longer automatically placed in maximum security, but were processed through an intake center and assigned cells based upon an analysis of risk factors and space availability. Inmates reported continued improvement in food service operations due to a professional staff overseeing the inmate cooking staff; however, some unsanitary conditions in food preparation remained.

As part of prison reform efforts, the prison adopted new use-of-force guidelines to address past concerns over prisoner treatment. Prison officials also established an internal affairs unit to investigate complaints against guards. According to prison officials, there were no allegations of abuse by prison guards during the year.

Organizations providing aid, counseling services, and religious instruction had regular access to inmates. The government significantly increased funding for improvements in prison facilities and prisoner rehabilitation programs. Prison officials continued to improve technical and vocational programs, opening the programs to women and increasing course offerings. Approximately 500 of the 900 eligible prisoners participated in training and work release programs. In response to past concerns regarding prisoner abuse, prison officials adopted a policy on use of force, increased guard training, and used the new internal affairs unit to address complaints.

Following an investigation and an inquiry hearing, the coroner's court was unable to determine cause of death in 2000 of Sidney McKenzie, a Fox Hill prison inmate, after fellow inmates who initially had refused to testify for fear of retaliation told the courts that a prison guard beat and killed him.

In October 2004 the coroner's court ruled that neglect and failure to provide medical attention contributed to the death of Kazimierz Kwasiborski, who died at Fox Hill prison in 2003.

Although conditions for women prisoners were less severe, they did not have access to work release programs available to male prisoners.

The maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending upon the severity of their crimes. Offenders younger than 16, along with children made wards of the court by their parents because of "uncontrollable behavior," were held at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls.

In February the coroner's court found that the 2003 deaths of two girls in a fire at the Pratt Center were accidental, but that the center's negligent management of padlocked rooms contributed to the deaths. Center officials admitted a breakdown in safety measures.

The Carmichael Road Immigrant Detention Center holds up to 500 detainees (with tent space for an additional 500), and women and men were housed separately. Haitians and Cubans were the most commonly interdicted migrants. The highest occupancy during the year was approximately 700, with an additional 250 at a temporary holding facility on the island of Great Inagua. Detainees complained that non-English speaking migrants were sometimes unable to communicate with guards regarding basic needs and detention center rules. Detainees also continued to complain of abuse by guards. Human rights groups expressed concern that complaint investigations were handled internally without independent review and oversight.

Children under the age of 14 were held in the women's dormitory. Many children arriving with both parents were not allowed contact with the father. Despite the potential of being held for months, these children did not have access to educational materials or a place to exercise or play.

Following an internal investigation into October 2004 allegations of abuse of migrants at the detention center, the government concluded that the complaints were without merit. Amnesty International (AI) criticized the investigation as biased and incomplete. In July a detainee alleged that guards unlawfully beat him and shot him with rubber bullets. Authorities reassigned the guards pending completion of an internal investigation, which continued at year's end.

Domestic and international human rights groups visited the prison and detention center during the year.

*d. Arbitrary Arrest or Detention.*—Although the law prohibits arbitrary arrest and detention, police occasionally arrested and detained persons arbitrarily.

*Role of the Police and Security Apparatus.*—The Royal Bahamas Police Force (RBPF) maintains internal security, and the small Royal Bahamas Defense Force (RBDF) is responsible for external security and some minor domestic security func-



tions such as guarding foreign embassies and ambassadors. The Ministry of National Security oversees the RBPF and the RBDF.

The Police Complaints and Corruption Branch, which reports directly to the deputy commissioner, was responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the attorney general. Local attorneys and human rights observers expressed concern that the complaints and corruption branch lacks the independent authority needed to impartially investigate allegations of abuse and misconduct, and that perceived lack of impartiality discouraged full reporting of complaints. Although the government appointed an independent four-person committee to oversee the complaints and corruption branch and report directly to the minister of national security, the committee was not used pending passage of implementing legislation.

The complaints and corruptions branch instead continued to report directly to the commissioner without independent oversight. Police officials insisted that their investigations were fair and thorough. A police officer involved in shooting or killing a suspect automatically is placed under investigation. There were 292 complaints against police during the year, compared with 330 in 2004. Of these 292 cases, authorities resolved 36, referred 68 referred to court, and had 188 still under investigation at year's end. Following investigations into complaints against police during the year, including unethical conduct, assault, wrongful arrest, and excessive use of force, authorities dismissed 2 officers and brought criminal charges against 15 officers. Charges resulted in two convictions, four acquittals, and nine cases under way at year's end.

During the year police underwent training in human rights issues, including in-house training for officers on use of force, human rights, internal investigations of complaints against police, and corruption. Police officials believed that additional training is necessary to address continuing problems.

*Arrest and Detention.*—In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. The law provides that a suspect must be charged within 48 hours of arrest. Arrested persons appear before a magistrate within 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Police can apply for a 48-hour extension upon simple application to the court and for longer extensions with sufficient showing of need. Some persons on remand claimed they were not brought before a magistrate within the 48-hour time frame. One suspect was held without charge in maximum-security prison from April to August until he pled guilty to crimes before being officially charged, claiming he wanted to avoid precharge and pretrial maximum-security detention. The government generally respected the right to a judicial determination of the legality of arrests.

Although there is a functioning bail system, the law prohibits bail for repeat offenders and those accused of certain violent crimes. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Many foreign suspects paid bail and fled the country to avoid prosecution and extended detention.

Arrested persons may hire an attorney of their choice, but the government only provided legal representation to destitute suspects charged with capital crimes. In a 2003 report AI estimated that 41 percent of inmates did not have legal representation at their trial. Local legal professionals and human rights observers believed that this lack of representation risked hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants.

There were no reports of political detainees.

Attorneys and other prisoner advocates continued to complain of excessive pretrial detention (see section 1.e.). The constitution mandates that suspects can be held for a "reasonable period of time" before trial. Suspects commonly were held two to four years before they received a trial. In October a government report stated that 645 of the 1,500 prisoners at Fox Hill were awaiting trial. Prison officials estimated that approximately 100 pretrial prisoners had been on remand for over 2 years.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at the Carmichael Road Immigrant Detention Center until arrangements could be made for them to leave the country, or they obtained legal status. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. Average length of de-

tention varied significantly by nationality and availability of funds to pay for repatriation. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison, where they often remained for weeks or months after serving their sentences, pending deportation.

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

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of five years. Trial by jury is available only in the Supreme Court, which handles most major cases. Magistrate's court decisions may be appealed to the Court of Appeal; the Privy Council in London is the final court of appeal. The governor general appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence until proven guilty and are permitted to question witnesses at trial. There is a functioning system of bail, but individuals who could not post bail were held on remand for indefinite time periods. The judicial system had a large backlog of cases, and delays reportedly lasted as long as four years.

Local legal professionals attributed most delays to slow police investigation and prosecution rather than a lack of judicial capacity, suggesting that prosecutors had little incentive to quickly bring a matter to trial while the accused were detained for long prison terms while awaiting trial. In addition to excessive pretrial detention, local legal professionals continued to complain of outdated record keeping, delayed justice for victims, and a failure to update new laws on the books. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

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

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

While the law usually requires a court order for entry into or search of a private residence, a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. However, members of independent media complained that the government restricted access to some information and events, providing preferential access to government media sources. In November the independent press was limited in reporting on a public session in the Senate where government-controlled media were unrestricted.

The government did not restrict academic freedom or access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The constitution explicitly calls for respect for Christian values.

*Societal Abuses and Discrimination.*—There were no reports of societal violence or discrimination, including anti-Semitic acts. There is a local Jewish community of approximately 200 persons.

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

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

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

*Protection of Refugees.*—Although the country is a signatory to both the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a consistent system for providing protection to all refugees and asylum seekers. The government particularly faced difficulties with regard to Haitian migrants. All Cuban migrants were given the opportunity to apply for asylum. In practice the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution. Applications for political asylum were adjudicated on a case-by-case basis at the cabinet level.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. Although the government asserted that all migrants who claimed asylum were interviewed by trained immigration officials, AI disputed this claim. The UNHCR reviewed the interview records of cases they were provided and offered recommendations on certain cases. Local and international human rights observers criticized the government for failing to screen potential asylum applicants adequately. These organizations claimed that some Haitians with a legitimate fear of persecution were repatriated without having the opportunity to make a claim for asylum. There was a lack of Creole-speaking immigration officers, and Haitian migrants often were unaware of their right to claim asylum, resulting in limited requests for asylum screening. In addition those requesting asylum screening often lacked access to legal counsel. The government denied it inadequately screened potential asylum applicants.

The Department of Immigration reported that through October, approximately 3,200 persons were repatriated to their home countries. The authorities did not grant asylum during the year.

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

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

*Elections and Political Participation.*—The two principal political parties are the ruling PLP and the opposition Free National Movement (FNM). In 2002 national elections generally considered free and fair, the PLP won 29 of 40 seats in the House of Assembly and formed the new government under Perry Christie. The FNM won seven seats, and independents won four.

The 40-seat House of Assembly had 8 elected female members; there were 7 appointed female senators, including the president of the Senate. A woman served as deputy prime minister and minister of national security. Women also headed several other ministries. Information on racial background was not collected, but it was estimated that there were four members of minorities in parliament and none in the cabinet.

*Government Corruption and Transparency.*—There were isolated allegations of government corruption during the year. Eight matters were reported to the complaints and corruption branch of the RBPF during the year, resulting in criminal prosecutions for bribery and five pending investigations. The public was concerned with any report of corruption but did not perceive corruption to be a widespread problem.

There were no laws providing for public access to government information. Members of the local press complained that the government failed to regularly provide open access to information, but the government did not respond to such criticism.

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

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

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

The government generally respected in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or gender. However, the constitution and the law contained certain provisions that discriminated against women.

*Women.*—Violence against women continued to be a serious, widespread problem. The law prohibits domestic violence, and the government generally enforced the law. However, domestic violence laws do not provide penalties separate from other crimes of assault and battery, and the law does not criminalize sexual violence within a marriage. The RBPF reported that 9 of the 44 recorded killings through November were the result of domestic violence. Police received an estimated one thousand domestic violence complaints for the year. Women's rights groups cited a general reluctance on the part of law enforcement authorities to intervene in domestic disputes. The police recognized domestic violence as a high priority, provided specialized training for all incoming officers, and offered continuing training in domestic violence. The police force specifically made efforts to increase awareness of domestic violence in the Family Islands. The courts impose various legal constraints to protect women from abusive spouses or companions. Advocates for women's rights

saw a need to improve the effectiveness of enforcement of court orders and a need for improved legal aid for women. Women's rights advocates also sought improvements to the domestic violence law, including criminalization of spousal sexual abuse.

The government operated a toll-free hot line in New Providence and Grand Bahama, with trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. The Ministry of Social Services, in partnership with a private company, operated a safe house to assist battered women.

Rape is illegal. The maximum penalty for a first-time offender is 7 years' imprisonment and, in the case of a second or subsequent conviction, the penalty is 14 years' imprisonment. On occasion rapists were given life sentences. Some rape accusations brought by foreign victims did not result in formal charges. According to the RBPF, there were 80 rapes reported, a decrease from 86 in 2004. More than half of the victims knew their attacker. The RBPF credited public outreach programs and the involvement of the Department of Social Services, the Crisis Center, and the Adolescent Clinic for this decrease. Prosecutions and convictions on rape charges were common, and the maximum penalty frequently was applied.

Prostitution is illegal and was not a widespread problem. In November 2004 police raided a local strip club and arrested all 76 persons present. Authorities charged several individuals with "soliciting for immoral purposes" under antiprostitution laws. Following a June raid on a second strip club, dancers and staff of the club were similarly charged. In a September decision a local court found that the strip club activities did not violate prostitution laws.

There are no laws specifically addressing sex tourism. Police officials acknowledged that sex entertainment was a developing industry, but did not consider sex tourism a problem.

The law prohibits criminal "quid pro quo" sexual harassment, and authorizes penalties of up to five thousand dollars and a maximum of two years' imprisonment. Civil rights advocates complained that criminal prohibitions were not effectively enforced, and that civil remedies, including a prohibition on "hostile environment" sexual harassment, were needed.

The law does not provide women with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. The law does not include gender as a basis for protection from discrimination. Women continued to advocate an amendment to the constitution and revision of related laws to redress this situation. Women were generally free of economic discrimination, and the law provides for equal pay for equal work.

*Children.*—The government claimed child welfare and education were priorities but lacked sufficient funding to maintain and improve standards.

Public schools lacked basic educational materials, and facilities were overcrowded and substandard. Public education is compulsory and free for children through the age of 16, and most children attended school until that age. Cultural biases often forced unwed, pregnant teenagers to leave public schools, and a quasi-governmental group continued to seek to create an alternative school program for these girls.

Both the government and civic organizations conducted public education programs aimed at child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. During the summer months, the RBPF operated a hot line in response to an increase in the number of reports of missing or exploited children.

From January through August, the Ministry of Social Services reported 387 cases of child abuse, including 31 reports of incest, 120 reports of physical abuse, 47 reports of sexual abuse, 177 reports of neglect, 6 reports of verbal abuse, and 6 reports of abandonment. The ministry estimated that only one-third of cases were reported.

The law requires that all persons who have contact with a child they believe to be sexually abused report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believed occurred quite frequently. The police referred reported cases of sexual and physical abuse to the Ministry of Social Services, which investigates them and can bring criminal charges against perpetrators. The ministry may remove children from abusive situations if the court deems it necessary. The ministry operated a center for abused and neglected children.

The Ministry of Social Services is responsible for abandoned children up to 18 years of age but had very limited resources at its disposal. The government hospital housed eight abandoned children (all of whom had physical disabilities) during the year, as there was no effective foster care program in which to house them.

*Trafficking in Persons.*—Although there are no laws that specifically address trafficking in persons, the law prohibits prostitution and the procurement of persons for purposes of prostitution either in or outside the country by force, threats, intimidation, or the administering of drugs. The maximum penalty for prostitution is five years' imprisonment; procurement for the purpose of prostitution carries a penalty of eight years' imprisonment.

There were no specific reports that persons were trafficked within, to, or from the country, but concerns were increasing.

The lack of a legal prohibition may have obscured trafficking within the vulnerable illegal migrant communities. In June the International Organization of Migration (IOM) issued a report on human trafficking suggesting a link between irregular migration and forced labor for domestic servitude, agriculture, and construction. In March IOM hosted an antitrafficking meeting and training that included government and civil society participants.

*Persons with Disabilities.*—There is no specific law protecting persons with physical or mental disabilities from discrimination in employment, education, access to health care, or in the provision of other state services. Although the law mandates access for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement, and very few buildings and public facilities were accessible to persons with disabilities. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance worked with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations that offered services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of persons with disabilities. A mix of government and private residential and nonresidential institutions provided limited education, training, counseling, and job placement services for adults and children with both physical and mental disabilities.

In June following a dispute over the closure of the Cheshire Home for the Physically Disabled, residents were forcefully evicted from the home by cutting power, water and phone service from the home, then boarding windows, with residents still inside. Disability advocates claimed that the government was complicit in the closure and failed to prevent the eviction. A lawsuit was pending at year's end.

*National/Racial/Ethnic Minorities.*—According to unofficial estimates, between 10 and 25 percent of the population are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority. Many persons of Haitian origin lived in shantytowns with limited sewage, garbage, law enforcement, or other infrastructure. Haitian children generally were granted access to education and social services, but some Haitians complained of discriminatory treatment in education.

Anti-Haitian prejudice and resentment regarding continued Haitian immigration was common. Observers reported that efforts by the authorities to stem the influx of illegal Haitian immigrants, and efforts by politicians to appear tough on immigration, fueled anti-Haitian attitudes. Interethnic tensions and inequities persisted, and observers believed tensions have escalated. Members of the Haitian community complained of discrimination in the job market, specifically that identity and work permit documents were controlled by employers seeking leverage by threat of deportation. Individuals born in the country to Haitian parents were required to pay the tuition rate for foreign students while waiting for their request for citizenship to be processed.

In January a dispute over police handling of a traffic accident led to two days of violence in a Haitian neighborhood of Nassau. Residents claimed that police shouted anti-Haitian slurs and were aggressive towards the gathering crowd. The crowd reacted violently, burning cars and throwing objects at police. Five persons were injured, and authorities arrested and prosecuted individuals with Haitian surnames.

*Other Societal Abuses and Discrimination.*—Social discrimination against homosexuals occurred. There was widespread homophobia and religiously based opposition to homosexuality. Although homosexual relations between consenting adults are legal, there was no legislation to address the human rights concerns of homosexuals, lesbians, bisexuals, or transgendered persons. The government actively promoted opposition to homosexuality.

In September Miss Teen Bahamas was stripped of her title after she said she was lesbian. Also in September public school teachers punished students wearing clothing perceived to identify them as homosexual or advocates of homosexuality. There were continued reports of job termination following disclosure of sexual orientation, as well as discrimination in housing.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides labor unions with the right of free assembly and association, and workers exercised these rights in practice. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonged to unions.

Under the law labor disputes first are filed with the labor ministry and then, if not resolved, are transferred to an industrial tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final and only can be appealed in court on a strict question of law. Some employers complained that the industrial tribunal was biased unfairly in favor of employees.

*b. The Right to Organize and Bargain Collectively.*—Workers freely exercised their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiated wage rates without government interference.

The law provides for the right to strike, and while workers exercised this right in practice, the government has the right to intervene in the national interest to assure delivery of essential services. The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Ministry of Labor and Immigration must supervise the vote.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates asserted that the Port Authority allowed the Hong Kong-based company Hutchison-Whampoa, which owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law prohibits the employment of children under the age of 14 for industrial work or work during school hours, some children worked part-time in light industry and service jobs. Children under the age of 16 may not work at night. There was no legal minimum age for employment in other sectors. The Ministry of Labor and Immigration is responsible for enforcing these laws.

In June the Ministry of Labor and Immigration hosted a national conference on child labor and hazardous occupations. While no current data were available, the labor minister relied upon a 2002 ILO report to estimate approximately 52 children involved in the worst forms of child labor: 4 related to slavery/bondage or the sexual exploitation of children through incestuous relationships; 9 related to illicit or unlawful activities; 4 to hazardous activities; and 35 to commercial sexual activities. The government considered the 2002 ILO report an accurate reflection of conditions during the year.

*e. Acceptable Conditions of Work.*—The minimum wage for government employees, set in 2000, was \$4.45 (B\$4.45) per hour. A minimum wage for the private sector was established in 2002 at \$4.00 (B\$4.00) per hour. The minimum wage did not provide a decent standard of living for a worker and family. The law provides for a 40-hour workweek, a 24-hour rest period, and requires time-and-a-half payment for hours worked beyond the standard workweek.

The Ministry of Labor and Immigration is responsible for enforcing labor laws and has a team of inspectors that conducts on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints; however, inspections occurred infrequently. The ministry normally announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

## BARBADOS

Barbados is a constitutional democracy with a population of approximately 278 thousand. In the 2003 parliamentary elections, which were considered generally free and fair, citizens returned Prime Minister Owen Arthur of the Barbados Labour

Party (BLP) for a third successive term in office. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were problems in a few areas:

- excessive use of force by police
- poor prison conditions
- societal violence against women and children

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, two prisoners died while in temporary detention facilities following the Glendairy Prison fire. Authorities charged an inmate with the killing of Junior Boyce and were investigating the police shooting of inmate Dwayne O'Brian Harding at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the law specifically prohibits torture and inhuman or degrading punishment or other treatment, there were reports that police sometimes used excessive force. The majority of complaints against the police alleged unprofessional conduct and beating or assault. Police regularly were accused of beating suspects to obtain confessions, and suspects often recanted their confessions during their trial. There were numerous cases where the only evidence against the accused was a confession.

No information was available regarding complaints received by the Police Complaints Authority or how they were handled (see section 1.d.).

*Prison and Detention Center Conditions.*—Prison conditions remained poor. Glendairy Prison, the nation's sole prison, was a 150-year-old structure designed to hold 350 prisoners that routinely held more than a thousand prisoners. In March prisoners rioted and set fire to the prison, causing such severe damage that the government decided to abandon it permanently. One prisoner, Junior Boyce, was killed, and several were injured in fighting that broke out among prisoners. Prison guards and police also injured several prisoners in the process of regaining control of the facility. On March 31, security personnel reportedly shot and injured prisoners Glenroy Bruce and Winston Small during a confrontation with a prison guard. The government declared a state of emergency that authorized the use of soldiers from the Barbados Defense Force (BDF) to assist prison guards and police officers in securing the prison. A contingent of 120 security personnel from the Regional Security System was brought in from neighboring countries to assist as well.

The damage necessitated the removal of nearly one thousand prisoners to several temporary holding facilities, including a fort used by the BDF and a former warehouse. Authorities had difficulty maintaining order at these facilities and fights frequently broke out among prisoners. On April 10, guards reportedly shot and killed Dwayne O'Brian Harding at one of these facilities after he and other prisoners failed to obey orders to stop fighting. Another prisoner was also injured by gunshots during the disturbance.

On April 11, the government announced that all prisoners had been moved to a temporary prison constructed at Harrison Point until a permanent prison could be built. Conditions at the temporary prison were inadequate.

Keith Fields, held at the temporary prison while awaiting trial, told a judge that conditions at the prison were dangerous. Fields said he had to be hospitalized after being beaten and stabbed by other prisoners. On April 30, Deryck Smith, a prisoner held at the temporary prison, died after reportedly suffering an asthmatic attack. On May 24, prisoner Darcy Bradshaw fell into a coma and died in the hospital after having become ill at Harrison Point.

In May the press reported complaints by prisoners and their families about inadequate conditions at the temporary prison, including unsanitary cells, inedible food, and unclean drinking water. Family members complained that they were denied the opportunity to visit their relatives in prison and that prison authorities had failed to inform them in a timely manner when prisoners had serious health problems that resulted in their being taken to the hospital. Attorneys also complained that they were denied the ability to see their clients held at Harrison Point and other facilities. The superintendent of prisons responded that the emergency situation necessitated temporary restrictions on visits but that attorneys were allowed to visit prisoners.

The government also characterized the temporary prison as an improvement over the former prison, with several buildings spread over 65 acres, compared with the 39-acre Glendairy. The temporary prison also had separate facilities for persons on remand awaiting trial as well as for female prisoners, both of which the government described as improvements over the former prison.

In September the government announced that construction had begun on a new permanent prison. The Harrison Point facility held approximately 900 prisoners; the new facility, which will have a capacity of 1,200 prisoners, is due to be completed by January 2007.

While the government normally permitted prison visits by independent human rights monitors, no such visits were known to have taken place during the year at the Harrison Point facility.

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

*Role of the Police and Security Apparatus.*—The Royal Barbados Police Force (RBPF) numbered 1,394—including 110 Special Constables—and is responsible for internal law enforcement. While still a male-dominated profession, the number of female recruits to the RBPF was on the rise. The small BDF protects national security and may be called upon to maintain public order in times of crisis, emergency, or other specific need. The RBPF reports to the minister of home affairs, and the BDF reports to the minister of defense and security. Although the police largely were unarmed, special RBPF foot patrols in high crime areas carried firearms in response to public concern. An armed special rapid response unit continued to operate. The law provides that the police can request the BDF to assist them as needed with special joint patrols.

The Office of Professional Responsibility, headed by a superintendent, handled complaints of inappropriate police conduct. In 2004 an independent Police Complaints Authority (PCA) began operating to review complaints against the police. No information was available as to its operations; during the year the PCA's chairman resigned, and a new one had not been appointed by year's end.

*Arrest and Detention.*—Police are authorized to arrest persons suspected of criminal activity; a warrant is typically required. The law permits detainees to be held without charge for up to one week; however, once charged, detainees must be brought before a court without unnecessary delay. There is a functioning bail system. Criminal detainees were given prompt access to counsel and were advised of that right immediately after arrest. Although access to family members generally was permitted, several families complained that they did not receive regular access in the weeks immediately following the prison fire. Authorities confirmed this, asserting that it was necessary until appropriate security provisions could be made at the temporary holding facilities.

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every three hours to inquire about the detainees' condition. After 24 hours the detaining authority must submit a written report to the deputy commissioner. The authorities must approve and record all movements of detainees between stations.

There were no reports of political detainees.

There were 242 prisoners in pretrial detention at year's end.

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

The judiciary includes the courts of first instance, or magistrate's courts, and the Supreme Court of Judicature, which consists of the High Court and the Court of Appeals. The Privy Council in the United Kingdom was the final court of appeal until the government withdrew from it in April and adopted legislation making the new Caribbean Court of Justice its final appellate court.

*Trial Procedures.*—The law provides that persons charged with criminal offenses be given a fair public hearing without unnecessary delay by an independent and impartial court, and the government generally respected this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty; they have the right of appeal. The government provided free legal aid to the indigent in family matters, child support, criminal cases such as rape or murder, and all cases involving minors.

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

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



The government did not censor mail, but it restricted the receipt and importation of foreign publications deemed to be pornographic.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

In April the press reported that members of the Rastafarian community complained about a new legal measure that allows prison authorities to cut the hair of prisoners considered to be security risks. The Rastafarians said this infringed upon their religious practices, which includes the wearing of long hair in dreadlocks. Prison authorities argued that security considerations following the prison riot in March required that they be allowed to cut a prisoner's hair if it was believed the prisoner might hide weapons or contraband in the long hair.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

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

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

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—The government has not formulated a policy regarding refugees or asylum. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

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

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

*Elections and Political Participation.*—In the 2003 elections, the BLP, led by Prime Minister Owen Arthur, won its third parliamentary election, returning to office with a 23 to 7 seat majority over the Democratic Labour Party.

Approximately one-third of cabinet members were women, including the deputy prime minister, who served concurrently as the attorney general and minister of home affairs. There were 4 women and no minorities in the 30-seat House of Assembly. There were 7 women and 3 minorities in the 21-member Senate.

*Government Corruption and Transparency.*—The public perception of corruption in government was reportedly low.

There was no law providing citizens access to information held by the government. While access to information was provided on government Web sites, responses to requests for specific government information by citizens and other interested parties often were slow.

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

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

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

The law provides for equal treatment regardless of race, religion, or gender, and the government generally respected these provisions in practice.

*Women.*—Violence and abuse against women continued to be significant social problems. Spousal abuse remained a significant problem during the year, despite legal protections against spousal rape for women holding a court-issued divorce decree, separation order, or nonmolestation order. The law prohibits rape, and the maximum penalty for it is life imprisonment.

The law prohibits domestic violence, provides protection to all members of the family, including men and children, and applies equally to marriages and to com-

mon law relationships. Penalties depend on the severity of the charges and range from a fine for first-time offenders (unless the injury is serious) up to the death penalty for a killing. The courts heard a number of cases of domestic violence against women involving assault or injury. Victims may request restraining orders, which the courts often issued. The courts can sentence an offender to jail for breaching such an order. The police have a Victim Support Unit, made up of civilian volunteers, which offered assistance primarily to female victims of violent crimes.

There were public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club operated a crisis center staffed by trained counselors and provided legal and medical referral services. The government funded a shelter for battered women, operated by nongovernmental organizations (NGOs), which accommodated up to 20 women and children. The shelter offered the services of trained psychological and physiological counselors to victims of domestic violence.

Prostitution is illegal, but it remained a problem, fueled by poverty and tourism. The media occasionally reported on prostitution, usually in the context of concern over HIV/AIDS. There is no statute specifically prohibiting sexual tourism, and no statistics on it, but anecdotal evidence suggested that it occurred.

The law does not deal with sexual harassment, and sexual harassment in the workplace was a problem, but no statistics were available. An advocacy group called the Coalition on Sexual Harassment worked with the Department of Labor, among others, to develop legislation on this issue. Media reports often indicated that women were afraid to report sexual harassment because they feared retribution in the workplace. The Barbados Workers Union (BWU) continued to seek guidelines on sexual harassment in contracts and agreements it concluded with employers.

The Office of Gender Affairs in the Ministry of Social Transformation worked to ensure the rights of women. Women actively participated in all aspects of national life and were well represented at all levels of the public and private sectors. A Poverty Eradication Fund focused on encouraging entrepreneurial activities to increase employment for women and youth. The government reported that the number of female applicants for the police force, as well as for other jobs traditionally held by men, continued to increase. Women have equal property rights, including after a divorce.

*Children.*—The government was committed to children's human rights and welfare, although violence and abuse against children remained serious problems.

Education was free, compulsory, and universal until the age of 16. The government estimated that 98 percent of children between the ages of 5 and 16 attended school. The highest educational level achieved by most children was secondary school.

The National Health Insurance Scheme provided children with free medical and dental services for most medical conditions.

The Child Care Board has a mandate for the care and protection of children, which involved investigating day care centers and cases of child abuse or child labor, and providing counseling services, residential placement, and foster care. The Welfare Department offered counseling on a broad range of family-related issues, and the Child Care Board conducted counseling for child abuse victims.

*Trafficking in Persons.*—No laws specifically address trafficking in persons, although laws against slavery and forced labor could be applied. There were reports that persons were trafficked to the country.

In June the International Organization for Migration (IOM) released an exploratory assessment that identified the country as one of several in the region to which people were trafficked. The findings of the report suggested that persons were trafficked, both to work as prostitutes and as domestic workers. Persons also reportedly were trafficked to work in the construction and garment industries, where they were subject to low wages and false contracts. The IOM noted that in cases where trafficking may have occurred, the government typically deported the persons suspected of being trafficked and failed to investigate or prosecute the alleged traffickers.

In November the government deported 14 persons who had been trafficked to the country from India. According to press reports, the trafficked persons said they came to work for an India-based construction company that falsely claimed to have acquired work permits for them. The Indian migrant workers walked off the job in November to protest low pay, poor living conditions, and the inadequate food provided by their employer. The government deported them several days later. The BWU criticized the government for punishing the workers and not the traffickers; at year's end a government investigation into whether the migrants' employer had broken the law was under way.

Although prostitution is illegal, a number of brothels with women from Guyana, the Dominican Republic, and other Caribbean islands operated in the country. The police periodically raided brothels and deported women found working illegally. Authorities reportedly did not use screening procedures before deportations to determine whether these women were trafficking victims.

The government's Bureau of Gender Affairs, working in conjunction with NGOs, initiated a public education program to heighten awareness about potential human trafficking.

*Persons with Disabilities.*—Other than constitutional provisions asserting equality for all, there are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services. In practice persons with disabilities faced discrimination. Informal surveys suggested that there were 10 thousand to 12 thousand persons with disabilities in the country. The Ministry of Social Transformation operated a Disabilities Unit to address the concerns of persons with disabilities, but parents complained of added fees and transport difficulties for children with disabilities at public schools.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department set provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings had ramps, reserved parking, and special sanitary facilities for such persons.

*Other Societal Abuses and Discrimination.*—There are no laws that prohibit discrimination against a person on the basis of sexual orientation in employment, housing, education, or health care. Although no statistics were available, anecdotal evidence suggested that societal discrimination against homosexuals occurred.

The government initiated programs designed to discourage discrimination against HIV/AIDS infected persons and others living with them.

#### Section 6. Worker Rights

*a. The Right of Association.*—Workers freely exercised their right to form and belong to trade unions. Approximately 19 percent of the 148-thousand-person workforce was unionized; unionized workers were concentrated in key sectors, such as transportation, government, and agriculture.

Although employers were under no legal obligation to recognize unions under the law, most did so when a significant percentage of their employees expressed a desire to be represented by a registered union. While there is no specific law that prohibits discrimination against union activity, the courts provide a method of redress for employees who allege wrongful dismissal. The courts commonly awarded monetary compensation but rarely ordered reemployment.

*b. The Right to Organize and Bargain Collectively.*—Workers exercised the legal right to organize and bargain collectively. Since 1993 a series of negotiated protocols have contained provisions for increases in basic wages and increases based on productivity. Government, the private sector, and labor representatives signed a fifth such protocol in May.

There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. All private and public sector employees are permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for a minimum working age of 16, and this provision generally was observed in practice. Compulsory primary and secondary education policies reinforced minimum age requirements (see section 5). The Labor Department had a small cadre of labor inspectors who conducted spot investigations of enterprises and checked records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers.

*e. Acceptable Conditions of Work.*—The law provides for and the authorities establish minimum wage rates for specified categories of workers. The categories of workers with a formally regulated minimum wage are household domestics and shop assistants. The minimum wage for these employees was \$2.50 (BDS\$5) per hour, which provided a decent standard of living for a worker and family; most employees earned more than the minimum wage. The Labor Department within the Ministry of Labor and Social Security was charged with enforcing the minimum wage. There

were occasional press reports alleging that migrant workers received less than the minimum wage.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The law prescribes that all overtime must be voluntary.

In August parliament passed the Occupational Safety and Health at Work Act, but by year's end the government had not issued regulations pursuant to the act. The Labor Department enforced other health and safety standards and followed up to ensure that management corrected problems cited. The law requires that in certain sectors firms employing more than 50 workers create a safety committee, which could challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identified safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Labor Department's Inspections Unit conducted several routine annual inspections of government-operated corporations and manufacturing plants. Workers had the right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

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## BELIZE

Belize is a constitutional parliamentary democracy with an estimated population of 282,600. Prime Minister Said Musa's People's United Party held 22 of the 31 seats in the House of Representatives following generally free and fair multiparty elections in 2003. Although the civilian authorities generally maintained effective control, some members of the security forces committed human rights abuses.

Whereas the government generally respected the human rights of its citizens, there were problems in some areas. The following human rights problems were reported:

- extrajudicial killings by security forces
- brutality and excessive use of force by members of the security forces
- arbitrary arrest and detention and lengthy pretrial detention
- violence and discrimination against women
- sexual abuse of children
- trafficking in persons
- child labor

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government and its agents did not commit any politically motivated killings, members of the security forces were accused and convicted of unlawful or unwarranted killings.

On August 16, police constable Randy Sanchez shot and killed Andrew Wallace, a 13-year-old youth. Police claimed that the youth was armed and that therefore the shooting was justified. At year's end Sanchez was on administrative leave while the Office of the Director of Public Prosecutions (DPP) investigated the case.

The trial in the case of police constable Burton Caliz, charged with manslaughter in the February 2004 killing of Leroy Pilgrim in San Pedro, was adjourned until 2006.

On November 24, police constable Sheldon Arzu was convicted of manslaughter and sentenced in December to 13 years' imprisonment for the 2003 shooting death of Reuben "Pony" Alarcon on Caye Caulker.

On July 20, authorities convicted police corporal Sherwood Wade of manslaughter by negligence for the killing of Darnell McDonald while off-duty in 2003 and ordered him to pay a fine of \$2 thousand (\$4 thousand BLZ). This was the second trial of this case; the first trial ended in a hung jury. An appeal of the sentence by the DPP on the basis that it was unduly lenient was pending at year's end.

On May 18, the Supreme Court convicted Belize Defense Force (BDF) private Giovanni Gutierrez of manslaughter and police constable Dennis Palacio of abetment of manslaughter in the 2002 killing of Aaron Mariano. Both were sentenced to 10 years in prison. Gutierrez and Palacio filed appeals pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the constitution prohibits torture or other inhuman punishment, there were numerous reports that police and prison staff used excessive force.

Common complaints received by the Office of the Ombudsman alleged misconduct and abuse by police and Department of Corrections personnel. Several cases of alleged abuse featured in the press were never reported to the Office of the Ombudsman or to the Office of Internal Affairs and Discipline for investigation. In a number of cases, the government ignored reports of abuses, withheld action until the case had faded from the public's attention, and then failed to take punitive action or transferred accused officers to other districts. The government took action on 74 of 81 complaints registered with the Office of Internal Affairs and Discipline. The ombudsman's office received 109 general complaints of police abuse and resolved 101 cases. The ombudsman determined that police use of force was appropriate in the majority of cases investigated, even if the level of force used was sometimes excessive.

At year's end the Office of Internal Affairs was investigating the claim by John and Frans Faux that Dangriga police tortured them in July by means of electric shock and beating.

A Supreme Court hearing was scheduled for 2006 in the case of police constable Julio Shal charged in March 2004 with attempted killing, deadly means of harm, and possession of a firearm while under the influence of alcohol, resulting in the shooting injury of Pedro Guzman.

During the year authorities dropped the charges of dangerous harm brought against police constable Clayton Marin in connection with the 2004 beating of Emile Pinelo. Charges of dangerous harm brought against former police constable Cyril Wade in connection with the same beating were maintained, with a civilian trial date to be set for Wade in 2006.

On January 5, authorities acquitted police superintendent Ewart Itza of all charges stemming from a 2003 brutality investigation. Prosecutors appealed his case to the Supreme Court, and the appeal was pending at year's end.

*Prison and Detention Center Conditions.*—Prison conditions were poor, but improved in relation to previous years, in part due to the efforts of nongovernmental organizations (NGOs) and a private foundation. The country's only prison, in Hattiesville, which was designed for 1,200 inmates, held approximately 1,300 adult male inmates, 28 female inmates, and 54 youth male inmates. Whereas the prison budget provided \$6 (\$12 BLZ) per prisoner per day to cover all operating costs, a local nonprofit organization, the Kolbe Foundation, which administered Hattiesville Central Prison under a Ministry of Home Affairs contract, reported that actual costs were \$7.50 (\$15 BLZ) per inmate per day. In the remands section of the prison, 301 detainees shared 40 15- by 20-foot cells that were designed to hold 150 persons.

During the year the Kolbe Foundation's efforts focused on rehabilitation, resulting in improvements in the prison system in the following areas: enhanced work-release opportunities; jobs skills training, including the establishment of a wood furniture and crafts workshop and a financial savings program for prisoners; and enhanced internal security that included supervised prisoners' access to cell phones for prisoners to report alleged abuses by guards. The government's Women's Department provided counseling and educational services for female inmates. By year's end the prison's youth facility had retained four full-time teachers and one full-time counselor.

During the year there were reports that prison authorities brutalized troublesome prisoners, including placing inmates in a small, unlit, and unventilated punishment cell called "supermax." Inmates claimed that prison officials sometimes withheld food and water as further punishment, conducted strip searches and beatings, and extorted money for transfers to better conditions.

The Kolbe Foundation investigated reports of abuse or excessive force by prison officials. On May 9, the Kolbe Foundation, by means of an internal tribunal, dismissed three senior prison officers, including the chief of security, for alleged brutality and bribery. Matters of inmate-on-inmate abuse were directly turned over to police. Prisoners convicted or accused of certain serious crimes such as child molestation often were held in the remands section of the Hattiesville prison for their protection.

The prison included a separate facility for women, located 200 yards outside the main compound. Conditions in the women's facility were significantly better than those in the men's compound. The government does not incarcerate female juveniles charged or convicted of crimes, but rather places them in the care of the government social services authorities. During the year there were no female juveniles in the custody of the social services authorities. Juvenile male prisoners lived in a separate, newly built facility outside the main perimeter fence.

First-time offenders were put in the same building as those who committed capital crimes.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—Although the constitution and legislation prohibit arbitrary arrest and detention, and the government generally observed these prohibitions, there were accusations of arbitrary arrest and detention.

*Role of the Police and Security Apparatus.*—Internal security was maintained by national and local police under the Office of the Commissioner of Police. The Ministry of Home Affairs supervised the Department of Police and the Department of Immigration and Customs, which also had national security responsibilities. The BDF, under the Ministry of Defense, handled external security and also had some domestic security responsibilities and supplied approximately 72 soldiers daily to the Office of the Commissioner of Police. The 1,014-member national police force had a hierarchical structure and generally responded to complaints. A lack of government resources, including low pay for officers as well as corruption, remained problems. During the year there were no reported cases of high-level or systemic impunity of security authorities.

The Police Department's Internal Affairs and Discipline (IAD) section, the DPP, and the Office of the Ombudsman investigated allegations of police abuses. On May 18, the government re-instituted a police complaints board comprised of the ombudsman, the Ministry of Home Affairs, and the Office of the Commissioner of Police. The IAD handled 184 complaints, including 81 for alleged brutality, against the police resulting in the dismissal or disciplining of 74 officers. During the year there was a 33 percent decrease in complaints and an increase in disciplinary action against police authorities alleged to have committed abuses.

*Arrest and Detention.*—Police were required to obtain search or arrest warrants issued by a magistrate, except in cases of hot pursuit, when there was probable cause, or when the presence of a firearm was suspected. Customs officers could search a premise with a writ of assistance issued by the Office of the Comptroller of Customs. The law requires police to formally (in writing) inform a detainee of the cause of detention within 48 hours of arrest and to bring the person before a magistrate to be charged within a reasonable time (normally 24 hours). In practice arresting police informed detainees immediately of the charges against them.

Police were required to follow "The Judges' Rules," a code of conduct governing police interaction with arrested persons. Although cases were sometimes dismissed when the Judges' Rules were violated, more commonly a confession obtained through violation of these rules was deemed invalid. Detainees usually were granted timely access to family members and lawyers, although there were occasional complaints that inmates were denied access or a phone call after arrest. Bail was available for all cases except killing and generally was granted. In cases involving narcotics, the law does not permit police to grant bail, but a magistrate's court may do so after a full hearing.

Detainees sometimes could not afford bail; backlogs in the docket often caused considerable delays and postponement of hearings, resulting in an overcrowded prison and at times prolonged pretrial detention. By year's end approximately 23 percent of the prison population was in pretrial detention (see sections 1.c. and 1.e.).

On January 20, police in the town of Hattieville detained Belize Energy Workers Union President Mark Butler reportedly for having harmful tools in his vehicle while transporting other union members to a demonstration. The union leader and members later were released on the same day only when opposition leader Dean Barrow phoned the police commissioner, who ordered their release from the police station.

There were no reports of political detainees.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected this provision in practice. The constitution is the supreme law of the land and persons have the right to bring legal actions for alleged violations of rights protected under the constitution, regardless of whether there is also implementing legislation.

Judges hold appointments until a mandatory retirement age of 65. There were 5 Supreme Court justices and 17 magistrates. Only three magistrates had a legal background. Most judges were members of the civil service and routinely were transferred between judicial and administrative postings. The government appoints the DPP for life. The DPP reported no attempted political interference with his job.

The judiciary consists of the *alcalde* courts, which have jurisdiction over small civil claims and minor criminal infractions, the magistrate's courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse,

domestic violence, and child support. The family court is at the same level as the magistrate's courts. Family court trials generally were private. The defendants in family court may appeal to the Supreme Court. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom. Trial by jury is mandatory in capital cases.

Under the law persons accused of civil or criminal offenses have the following rights: presumption of innocence, protection against self-incrimination, defense by counsel only in capital cases, a public trial, and appeal. Defendants have the right to be present at their trial unless the court determines that the opposing party has a substantiated fear for safety, and in cases, the court can grant interim provisions that both parties be addressed individually during a five-day period.

The government provided legal counsel for indigent defendants only in cases involving capital crimes. Most defendants could not afford an attorney, and there was a higher rate of conviction of defendants without legal representation. From January through June, the only staff attorney of the Legal Aid Center handled approximately 260 cases, but many defendants remained unrepresented. A severe lack of trained personnel constrained the judicial system, and very junior counsels or police officers often acted as prosecutors in the magistrate's courts.

Lengthy trial backlogs continued in the judicial system. Routine cases without a defense attorney were decided within one month, but cases involving a serious crime or in which a defense attorney was present took more than one year. Citing uncooperative witnesses and a lack of evidence, the DPP dismissed a large number of cases. Despite an increase in serious crimes, poor case management, lack of attorney discipline, and the prolongation of several cases for years, the backlog of cases decreased, largely because many cases were dismissed.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution prohibits such practices, and government authorities generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. The constitution, however, permits authorities to forbid any citizen to question the validity of financial disclosure statements submitted by public officials. Anyone who questions these statements orally or in writing outside a rigidly prescribed procedure is subject to a fine of up to \$2,500 (\$5 thousand BLZ), imprisonment of up to 3 years, or both. There were no reports that this prohibition was used during the year.

The independent media presented a range of viewpoints without restriction. The international media operated freely. All newspapers were subject to libel laws which, unlike in previous years, were enforced during the year.

On June 12, pursuant to a suit brought in 2003 by the prime minister, the Libel Court ordered *The Guardian* newspaper, affiliated with the Opposition United Democratic Party, to issue a public apology for writing in 2003 that Prime Minister Said Musa was corrupt, acted out of political spite, and had close links to organized crime mafia.

The Belize Broadcasting Authority regulated broadcasting and had the right to preview certain broadcasts, such as those with political content, and to delete any defamatory or libelous material from political broadcasts. This right was not exercised during the year.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. By law organizers of public meetings of more than 5 persons must obtain a permit 36 hours in advance of the meeting. There were no reports that permits were denied for political reasons.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish population constituted less than 10 persons.

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

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

The constitution prohibits forced internal or external exile of citizens, and there were no reports that the government used it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government had not established a system for providing protection to refugees. Since 1999 the government had not accepted asylum applications, and there was no legislation that formalized the asylum process. Until the government closed its Refugee Department in 1999, the UN High Commissioner for Refugees (UNHCR) relied upon a local NGO to monitor the status of asylum seekers and to represent its interests. The government had no procedure in place to accept or resettle refugees. On March 21, seven Cuban refugees landed on the Turneffe Atoll en route to Honduras. At year's end immigration and police authorities had no knowledge of the whereabouts of these persons.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held by secret ballot and on the basis of universal suffrage for all citizens age 18 and older.

*Elections and Political Participation.*—In 2003 the PUP won reelection in generally free and fair elections.

There were 2 women in the 29-seat House of Representatives, 1 of whom was appointed to serve as Speaker of the House, and 3 women in the 12-member appointed Senate. There was 1 woman in the cabinet, and 5 women were chief executive officers of ministries. Among the country's ethnic groups, Mestizo, Creole, Maya, Garifuna, and other minority and immigrant groups were represented in the National Assembly and at the highest levels of government.

*Government Corruption and Transparency.*—Evidence of government corruption was revealed during the year. The media continued to report inappropriate investments in 2004 by the Social Security Board and Development Finance Corporation, whereby the government allegedly authorized the use of millions of dollars in public domestic and international loan funds to assist the business interests of certain citizens. A Senate special investigation begun in 2004 continued until December 30 when a confidential report was submitted to the House of Representatives. Government sources indicated that the report was released without pending criminal charges or suggested criminal action against any party.

Mark Espat and Cordell Hyde, members of both the ruling party and members of parliament, continued to speak out against decisions made by the prime minister and ruling government regarding the budget and Belize Telecommunications Limited (BTL). On November 4, Hyde and Espat returned to the cabinet as ministers with portfolio, and both publicly stated their intention to be agents for change from within the government and their party.

Public surveys and Transparency International indicated that perceptions of corruption increased compared to the previous year. In March the Supreme Court investigated the government's sale or obligation of public utilities to foreign investors. The Court of Appeals continued to review a lawsuit brought during the year regarding the 2004 privatization and ownership of BTL.

The law provides for public access to documents of a ministry or prescribed authority upon written request, although it protects a number of categories, such as documents from the courts or those related to national security, defense, or foreign relations. The government must supply to the ombudsman a written reason for any denial of access, the name of the person making the decision, and information on the right to appeal. At year's end the ombudsman's office reported that it had not received any such appeals during the year.

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

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

The Human Rights Commission of Belize, an NGO affiliated with regional human rights organizations that had received start up funding from the UNHCR, closed during the year due to lack of adequate financial resources.



The independent ombudsman is appointed by the government to act as an independent check on governmental abuses. In his fifth annual report, the ombudsman reported receiving 342 formal complaints (mostly against government agencies), including: 109 against the Police Department, 28 regarding the Lands Department, 21 against Magistrates Court, 12 against the family court, 11 against the Department of Corrections, and 9 against the Belize City Council. The ombudsman investigated the majority of these cases. The ombudsman was allocated limited resources to conduct investigations. During the year opposition members in parliament continued to debate whether the ombudsman position should be dissolved, based on their platform to reduce the number of contracted positions in the government.

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

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced these prohibitions.

*Women.*—The law prohibits domestic violence and contains penalties, including imprisonment for violations, depending on the crime. During the year the law was enforced. The law empowers the family court to issue protection orders against accused offenders. Domestic violence against women remained a problem. The Family Violence Unit of the police recorded 1,191 instances of domestic violence against women during the year, of which 57 percent occurred in Belize City. There was one shelter for battered women, containing nine beds and offered short-term housing. The NGO Belize Organization for Women and Development advised women on their rights and provided counseling.

The law prohibits rape, including spousal rape. The government did not effectively enforce the law, which carries penalties of fines up to \$500 (\$1 thousand BLZ) or 1 year imprisonment, and several prominent brothels continued to operate openly. The police and courts treated rape more seriously than in previous years. In a number of instances, the DPP dropped the charges if the accusing party did not testify at trial. Arrests and convictions for rape received widespread press coverage. The police and courts enforced statutory rape laws; however, in relation to the number of accusations, convictions were infrequent. The law does not explicitly address adult prostitution; therefore the government does not use law enforcement resources to combat prostitution. Related activities, such as loitering for the purposes of prostitution, operating a brothel, and sexual solicitation are all illegal.

The law prohibits sexual harassment, which is punishable by a fine of up to \$250 (\$500 BLZ) or imprisonment for up to 3 months. No sexual harassment cases were brought during the year.

Despite legal provisions for gender equality, the media continued to report that women faced social and economic discrimination. On July 25, the BDF ended the practice of dismissing or disciplining female soldiers who became pregnant within their first two years of service. There were no legal impediments to women owning or managing land or other real property. Women were active in all spheres of national life but held relatively few top managerial positions. Although the law mandates equal pay for equal work, women tended to earn less than men. The median monthly income for a working woman was \$353 (\$706 BLZ), compared with \$374 (\$748 BLZ) for a man.

The Women's Department under the Ministry of Human Development, Women and Children, and Civil Society is responsible for developing programs to improve the status of women. A number of officially registered women's groups also worked closely with various government ministries to promote social awareness programs.

*Children.*—The government was committed to children's rights and welfare.

Education is compulsory for children between the ages of 5 and 15. After finishing primary education, children may enter a secondary school, a government-run apprenticeship program, or a vocational institution. These programs, however, had spaces for only half of the children completing primary school. Education was nominally free, but school, book, and uniform fees placed education out of reach for many poor children. According to a 2003 International Labor Organization (ILO) survey, approximately 71 percent of school-age children were enrolled in school. The enrollment rate was 96 percent at the elementary level and less than 60 percent at the secondary level. The majority of students reached fifth grade. Schools expelled pregnant students, who then had to wait a year before applying for readmission.

Several government-run clinics provided health care to children, with boys and girls having equal access to such care.

Child abuse was not considered to be widespread or a societal problem. However, in the Toledo area reportedly had high incidents of child labor and of sexual abuse of children occurred (see section 6.d.). The Family Violence Unit recorded 171 cases of domestic violence against children. Sexual abuse of minors, including incest, was a problem. The Family Violence Unit recorded 138 cases of sexual abuse against mi-

nors. The law allows authorities to remove a child from an abusive home environment and requires parents to maintain and support children until the age of 18. In August the government adopted a new law increasing the legally recognized minimum age for marriage with parental consent from 14 to 16 years of age. Many parents sold their daughters as child brides to men, often a friend of the family (see section 5, Trafficking).

On April 24, authorities arrested the parents of an 11-year-old female rape victim and a 13-year-old female rape victim for allegedly kidnapping the suspected male rapists. The father of one of the rape victims spent 2 days in police custody and 20 days in jail. On August 4, authorities charged the 2 girls with kidnapping, denied bail, and remanded them for 8 days to a youth hostel. On August 11, the DPP office withdrew kidnapping charges against the 11-year-old and substituted charges of abetment to kidnapping, but retained the charge of kidnapping against the 13-year-old.

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

The Family Services Division in the Ministry of Human Development, Women and Children, and Civil Society was the government office devoted to children's issues. The division coordinated programs for children who were victims of domestic violence, advocated remedies in specific cases before the family court, conducted public education campaigns, investigated cases of trafficking in children (see section 5, Trafficking), and worked with NGOs and UN Children's Fund to promote children's welfare.

*Trafficking in Persons.*—The law prohibits trafficking in persons, which is punishable by fines of up to \$5 thousand (\$10 thousand BLZ) and imprisonment of up to 5 years for trafficking and 8 years for rape. There were reports that persons were trafficked within and to the country, mainly from neighboring countries. The Trafficking in Persons Committee, under the Ministry of Home Affairs, is the official government agency responsible for combating trafficking.

During the year the government's efforts to identify trafficking victims were weakened by inadequate investigation and inspection by authorities. There were no reliable estimates of the extent of trafficking. There were reports that women were trafficked to the country from neighboring countries primarily for prostitution and nude dancing. Victims generally lived in squalid conditions in the bars where they worked. Some bar owners reportedly confiscated victims' passports. Agents of the bars and brothels lured women and girls to the country, and they or taxi drivers along the border delivered women to brothels.

There were reports of persons trafficked for labor purposes, including instances of Chinese immigrants being forced to work in local Chinese-owned sweatshops and of children working in activities such as shining shoes or selling newspapers at kiosks. Members of the East Indian community also trafficked persons from India as bonded laborers, holding their passports and paying less than minimum wage.

The government's National Committee for Families and Children reported instances of minors engaged in prostitution with older male clientele, in some cases of their own volition, in others arranged by their family. The girls were typically of high-school age, but some as young as 12 were reported, and came from economically disadvantaged families in which their mothers also were victims of the same abuse. The girls often provided sexual favors to older men in exchange for clothing, jewelry, or school fees and books. In a limited number of cases, the government was not able to prosecute individuals for unlawful carnal knowledge because the victims or their families were reluctant to press charges. In August the government changed the marriage law to prevent men from escaping prosecution for rape by marrying girls under 16 without parental consent.

On February 4, police in Orange Walk arrested and charged a Salvadoran national and mother of a 12-year-old girl with abetment to commit carnal knowledge, and also charged adult male Ernesto Magana with unlawful carnal knowledge, adult male Mario Zepeda with abetment of carnal knowledge, and charged adult female Katalina Jimenez with permitting the defilement of a child on her premises. A preliminary inquiry into the matter was set for January 2006.

On December 9, police arrested and charged Petronila Urratio with procurement pursuant to an investigation into reports that for over a year she had forced her 12-year-old daughter to have paid sexual intercourse with clients.

On December 23, Cecilia Garcia and her common-law husband Walter Swazo were tried and convicted of trafficking Garcia's 12-year-old sister for the purpose of sexual exploitation to Salvadoran national Santos Martinez, who took the minor to El Salvador. Garcia and Swazo each received sentences of one year in prison. At year's end authorities sought the extradition of Martinez, who remained in Salvadoran police custody.

The law also provides for limited victims' assistance, although, in practice there were insufficient government resources to provide meaningful aid to victims. Non-citizen victims willing to assist in prosecuting traffickers are legally eligible for residency status.

The government's National Committee for Families and Children provided nationwide training programs mostly for front line police and immigration officials, and the Ministry of Home Affairs increased the number of border checkpoints to control trafficking in and out of the country.

*Persons with Disabilities.*—Although the law does not expressly prohibit discrimination against persons with physical and mental disabilities, the constitution provides for the protection of all citizens from any type of discrimination. The law does not provide for accessibility for persons with disabilities. In practice persons with disabilities had access to regular classrooms and some limited special programs, but there were no separate schools for persons with disabilities. During the year there were no reports of discrimination against persons with disabilities in employment, education, or access to health care, and other state services. The government-operated Committee for those with Disabilities is tasked with enforcing protection and public education.

In November the committee and the Ministry of Education sponsored a nationwide tour of schools for Karen Gaffney, an international advocate for persons with Down's syndrome. Private companies and NGOs, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provided services to persons with disabilities. The Ministry of Education maintained an educational unit offering limited special education programs with strict entry requirements, within the regular school system.

*Indigenous People.*—The country is a pluralistic society comprising several ethnic minorities and indigenous Mayan groups. Among the country's indigenous population, the Mopan and Ke'kchi historically were characterized under the general term Maya, although self-proclaimed leaders more recently asserted that they should be identified as the Masenal ("common people").

There were no further developments and none were expected regarding the November 2004 rebuke by Inter-American Commission on Human Rights' of the government for not acting on the commission's 2003 recommendations that the government demarcate land occupied communally by indigenous communities before taking any further actions on the disputed lands.

*Other Societal Abuses and Discrimination.*—Ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. There was some societal discrimination against persons with HIV/AIDS, and the government worked to combat it through the public education efforts of the National Committee on HIV/AIDS under the Ministry of Human Development and through the Pan-American Social Marketing Organization, which received foreign government assistance.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law and in practice, workers generally were free to establish and join trade unions. Eight independent unions, whose members constituted approximately 11 percent of the labor force, represented a cross-section of workers, including most civil service employees. The Ministry of Labor recognizes a union after it has registered with the registrar's office. The National Trade Union Congress of Belize only recognized unions that held free, annual elections of officers. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The law prohibits antiunion discrimination. The government did not undertake any formal steps to address 2004 recommendations of the International Confederation of Free Trade Unions concerning employer antiunion discrimination in the banana production sector and export processing zones. The law does not require reinstatement of employees fired for union organizing activities, but an aggrieved employee can seek such redress from the courts. In practice effective redress for workers dismissed for union organizing was extremely difficult to obtain. Although workers are able to file complaints with the labor department, it was difficult for workers filing complaints to prove that a termination was due to union activity.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and unions practiced it freely. Although employers and unions can set wages in free negotiations, more commonly, employers simply established them. The labor commissioner or his representative has the authority to act as a mediator in deadlocked collective bargaining negotiations between labor and management, of-

fering nonbinding counsel to both sides. If either union or management chooses not to accept the commissioner's decision, both may request to a legal hearing.

Unions may organize freely, but the law does not require employers to recognize a union as a bargaining agent if no union within that sector covers more than 50 percent of the workers.

The law permits unions to strike and does not require notice before a strike. However, this right is not extended to public sector workers in areas designated as "essential services," which is broadly defined and includes postal, sanitary, health, and other services, as well as services in which petroleum products are sold. The law also empowers the government to refer a dispute to compulsory arbitration in order to prohibit or terminate a strike.

There are no special laws or exemptions from the regular labor laws in the country's 4 general and 26 special export-processing zones (EPZs). There were no unions in the EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). In its annual report, the ILO Committee of Experts requested that the government repeal sections of the Trade Unions Act that provide for compulsory labor as a punishment for violations of labor discipline or for participation in strikes by persons employed by the government or any public service.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a problem particularly in family-related commercial activities. The law prohibits the employment of children under age 12 and the employment of children between the ages of 12 and 14 before the end of school hours on official school days. While the law does not expressly provide for a maximum number of weekly hours of work that can be performed by persons under 18 years of age, it generally limits work hours for all persons to 45 hours per week. The law expressly prohibits children from working overtime. By law, children are permitted to work on family farms and in family-run businesses. The minimum age for employment involving hazardous machinery is 17-years-old. There were ambiguities in the legal definition of child labor in relation to light work, hazardous work, and artistic performance. Inspectors from the departments of labor and education are responsible for enforcing these regulations, but there were no updated reports on whether child labor laws were well enforced during the year.

In 2003 the Central Statistical Office issued the findings of an ILO study that estimated that 6 percent of children between the ages of 5 and 17 were working, half of them in hazardous work. The study did not include the sizeable population of undocumented minors, many of whom were not in school. The Department of Labor coordinated with police and social services authorities to provide health and other services to undocumented foreign children who worked.

Children in rural areas worked on family plots and businesses after school, on weekends, and during vacations, and were involved in the citrus, banana, and sugar industries as field workers. Children in urban areas shined shoes, sold food, crafts, and other small items, and worked in markets. Adolescent girls, some of whom were trafficked within the country and to and from neighboring countries, worked as domestic servants, and some worked in commercial sexual activities (see section 5). There were no government-sponsored child labor prevention programs.

*e. Acceptable Conditions of Work.*—The national minimum wage was \$1.12 (\$2.25 BLZ) for all workers. The minimum wage law did not cover workers paid on a piecework basis. The Ministry of Labor was charged with enforcing the minimum wage, which generally was respected in practice. The national minimum wage did not provide a decent standard of living for a worker and family.

The law sets the workweek at no more than 6 days or 45 hours and requires premium payment for overtime work. The exploitation of undocumented Central American workers, particularly young service workers and agricultural workers, continued to be a problem.

Several different health and safety regulations covered numerous industries, and the Ministry of Labor set and enforced these regulations to varying degrees. The government committed its limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints were registered. Workers had the legal right in law and practice to leave a dangerous workplace situation without jeopardy to continued employment.

## BOLIVIA

Bolivia is a constitutional, multiparty democracy with a population of 8.5 million. On June 9, following weeks of social protests, congress accepted the resignation of President Carlos Mesa Gisbert, who assumed the presidency in October 2003, following the resignation of the then President Gonzalo Sanchez de Lozada. The presidency passed through the constitutional line of succession (both the presidents of the Senate and the Chamber of Deputies declined the position) to Supreme Court President Eduardo Rodriguez Veltze, who became a transitional president. On December 18, in a generally free and fair process, citizens elected Evo Morales Aima as president by the largest margin in recent history. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas. Civil unrest during the first half of the year resulted in some reported human rights violations. President Mesa's policy of not using force to maintain order resulted in fewer cases of violations committed by state actors, but the vacuum of power created other social and economic problems and ultimately led to his resignation and the transfer of power to President Rodriguez in June. The following human rights problems were reported:

- abuses by security forces, including killings, use of excessive force, extortion, and improper arrests
- mistreatment of military conscripts
- harsh prison conditions characterized by violence
- arbitrary arrest and detention, police brutality, and prolonged detention
- corruption, inefficiency, and political manipulation of the judiciary
- pervasive domestic violence and discrimination against women, abuse of children, and trafficking in persons
- discrimination against and abuse of indigenous people and blacks
- child labor and brutal working conditions in the mining industry

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government or its agents did not commit any politically motivated killings, one protester was killed and dozens were injured during violent demonstrations in La Paz and Chuquisaca (see section 2.b.). Additionally, security forces killed two persons in unrelated events.

On January 28, naval officer Ruben Dario Rojas shot and killed Eusebio Negrete Rojas Pinto, a 12-year-old boy in Riberalta who he believed was a cattle thief. Rojas' family alleged excessive force due to the existence of 13 entry-wounds and further alleged that he did not receive prompt medical treatment. On July 1, authorities sentenced Dario to three years in prison.

On June 9, during the civil unrest that led to President Mesa's resignation, unknown actors killed miner Carlos Coro Mayta outside the city of Sucre. The government indemnified the family for his death, and the investigation was ongoing at year's end.

On August 4, army officer Luis Fernando Pereara Ramos, who was under the influence of alcohol, shot and killed military conscript Fredy Moises Kanqui. The case was pending in a military court at year's end, and Pereara was being held in preventative detention.

There were no developments in the investigations of the June 2004 killings of officer Saul Coronado and two peasants, Hernan Masay and Eddy Argmon, during confrontations between security forces and civilians in the town of San Pablo.

There were no new developments in the investigations of the September and October 2004 confrontations between coca growers (*cocaleros*) and security forces inside the Isiboro Secure nature reserve, which resulted in the deaths of *cocalero* Juan Colque and Genaro Canaviri.

There were no developments and none were expected in the investigation of the December 2004 killing of Medrin Colque Mollo, presumably by police, during a confrontation between more than 100 squatters and security forces.

There were no significant developments in the public ministry investigations into the February 2003 civil unrest that left 33 people dead and some 200 injured.

With respect to the government's case against former President Gonzalo Sanchez de Lozada and his cabinet for the approximately 59 deaths and more than 400 per-

sons injured in the October 2003 civil unrest, the government did not conduct a full and fair investigation, but absolved civilians of all liability for their role in the unrest. The government notified the majority of the defendants of the charges against them and began taking evidence in the case in August, including the depositions of military officials.

On August 25, police officer Santiago Calderon Romero was killed during a land confrontation with the Landless Movement, a nongovernmental organization (NGO) in Santa Cruz.

On September 1, on the outskirts of El Alto in Viacha, Gumercindo Mamani, Damaso Condori, and Dionicio Flores were killed in a dispute between two communities over land ownership. These cases were under investigation at year's end.

In March 2004 disgruntled miner Eustaquio Picachuri, who entered congress with dynamite strapped to his body, blew himself up, killing policemen Marvel Flores and Rene Amurrio and injuring 11 bystanders. The government determined that Picachuri did not have any accomplices, so the authorities did not open a criminal investigation.

There were no significant developments and none were expected in the investigations into the numerous boobytrap and sniping incidents in the Chapare in 2003 that killed or injured security personnel eradicating illegal coca plants and the shooting death of coca grower Willy Hinojosa.

There were several deaths due to violence in prisons during the year (see section 1.c.).

In the case of the February 2004 killing of prosecutor Monica von Borries in Santa Cruz, authorities granted conditional liberty on bond to Spanish citizen Francisco Javier Villanueva in November. At least one other suspect, Brazilian citizen Ricardo Borba remained in jail. Italian Marco Marino Diodato escaped from custody and remained at large, while Brazilian suspect Sandro de Carvalho escaped from a Santa Cruz prison in September (see section 1.c.).

In the case of the June 2004 lynching of Ayo Ayo Mayor Benjamin Altamirano, authorities made several arrests and sentenced two persons associated with the killing. On December 2, police arrested the principal suspect and alleged mastermind of the crime, Cecilio Huanca, in Santa Cruz. Government officials, previously driven from the town, regained control of Ayo Ayo.

The government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths resulted in a perception of impunity. The congressional human rights committee, the ombudsman's office, the Vice Ministry of Justice and its Directorate of Human Rights, and NGOs continued to press the government to expedite action in the cases.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and while the government generally respected these prohibitions, there were a number of allegations of beatings and abuse by members of the security forces. The Human Rights Ombudsman released a report on December 30 which stated that of all government institutions, police were the most frequent violators of human rights.

The Chimore Center for Justice and Human Rights (CCJHR), which was converted into an Integrated Justice Center, received 16 complaints from citizens in the Chapare during the year that security forces either had abused them or stolen their property. Cases were not formally filed with the public ministry but instead were referred for action to the police office of professional responsibility.

There also were credible allegations that military commissioned officers and non-commissioned officers beat and otherwise mistreated military conscripts.

On December 21, La Paz police officers Rene de Rio Rosales, Mario Vaca, and Edgar Choque reportedly arrested and beat Alvaro Guzman, Director of Human Rights for the Vice-Ministry of Justice, and refused to allow him access to an attorney. An investigation was pending at year's end.

The public ministry investigation continued into allegations that Santa Cruz police tortured Spanish citizen Francisco Javier Villanueva in April 2004 in connection with the February 2004 car bombing of State Prosecutor Monica Von Borries (see section 1.a.).

No significant progress was made in the 2003 case involving two coca growers injured during a protest at Cruce Vuelatadero or in the 2003 beating cases of Gabina Contreras and her husband Crecencio Espinosa near Santa Rosa, allegedly by army soldiers. The latter case remained under investigation at year's end.

Indigenous communities in areas with little or no central government presence imposed punishments that reportedly included the death penalty for members who violated traditional laws or rules, although the constitution prohibits the death pen-

alty. Vigilante justice was a regular occurrence in the mostly indigenous city of El Alto, where images of would-be thieves were hung routinely in effigy near stores and markets. On July 12, crowds attempted to burn professor William Villca in Cochabamba when neighbors of the town confused him with a thief.

*Prison and Detention Center Conditions.*—Prison conditions were harsh. Prisons were overcrowded and in poor condition. Overpopulated jails included: San Pedro in La Paz by 397 percent, Mocovi by 345 percent, and the women's jail in La Paz by 300 percent. A total of 52 persons escaped from prisons during the year, with 17 recaptured. On September 22, 27 prisoners escaped from Palmasola in Santa Cruz. Guards killed 2 prisoners during the escape; 14 remained at large. With the exception of the maximum-security prison of Chonchocoro in El Alto, government authorities effectively controlled only the outer security perimeter of each prison. Inside prison walls, prisoners usually maintained control, and criminal gangs operated from their cells without hindrance.

Violence between prisoners and, in some cases, the involvement of prison officials in violence against prisoners were problems. In October more than 200 prisoners in the Cantumarca prison in Potosi rioted after guards beat prisoner Ever Guaman. Corruption was a problem among low-ranking and poorly paid guards and prison wardens. The number of persons held in detention centers, intended to hold persons prior to the completion of their trials and sentencing, significantly decreased due to the new Code of Criminal Procedure (CCP) but was still a problem due to judiciary strikes and a general increase in crime.

According to the director general of the Penal System in the Ministry of Government, as of October, there were 7,310 prisoners (949 women and 6,361 men) in facilities designed to hold 4,700 prisoners.

A prisoner's wealth may determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Fees reportedly were paid to prior cell occupants or to prisoners who controlled cellblocks. Although the law permits children up to 6 years old to live with an incarcerated parent, children as old as 12 lived with their parents in prisons. There were approximately 730 children living with a parent in prison, as an alternative to being left homeless. The standard prison diet was insufficient, and prisoners who could afford to do so supplemented the standard prison diet by buying food. The law provides that prisoners have access to medical assistance, but there was no adequate health care within the prisons, and it was difficult for prisoners to get permission for outside medical treatment. Of the country's 14 jails, 5 did not have doctors or provide medical assistance. Several illnesses were registered in the jails such as tuberculosis and HIV. The government was unaware of the number of ill prisoners. However, affluent prisoners could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Inmates who could pay had access to drugs and alcohol.

Several deaths due to violence in prisons occurred during the year, including the death of a child molester/rapist who was killed by his fellow inmates.

In August authorities charged and sentenced prisoners William Perez and Elito Limon to 30 years and 5 years, respectively, for their roles in the death of prisoner Mauricio "Chichuriru" Suarez in 2003.

There are separate prisons for women, except for Morros Blancos prison in Tarija, where both men and women were incarcerated. Conditions for female inmates were similar to those for men; however, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

The 706 convicted juvenile (16 to 21 years old) prisoners were not segregated from adult prisoners in jails, and adult inmates sometimes abused them. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by independent human rights observers, judges, and media representatives, and such visits took place during the year.

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

*Role of the Police and Security Apparatus.*—The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations, which occurred during the year. The National Police disciplined its officers when appropriate, issuing 641 administrative sanctions during the year. Several senior police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. In April authorities charged three high-ranking police officers with assault but later released the officers on technical grounds. Prosecutors generally were reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they rely on the Judicial Technical Police to investigate their own officers.

*Arrest and Detention.*—Arrests were carried out openly, but there were credible reports of arbitrary arrest and detention. The CCP requires an arrest warrant, and the police must inform the prosecutor of an arrest within 8 hours. The law requires that a detainee be presented before a judge within 24 hours. The CCP provides that within this 24-hour period a judge must determine the appropriateness of continued pretrial detention or release on bail and must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest. Credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

Many prisoners still awaited trial; the most recent government statistics revealed that approximately 5,404 were awaiting sentencing, but the courts provided release on bail for some prisoners. Judges have the authority to order preventive detention for suspects under arrest deemed to be a flight risk. If a suspect is not detained, a judge may order significant restrictions on the suspect's travel.

Prisoners were allowed access to a lawyer, but approximately 70 percent could not afford legal counsel, and public defenders were overburdened (see section 1.e.).

Approximately 800 police officers and prosecutors were trained in the new CCP and in safeguarding human rights during criminal investigations.

There were no reports of political detainees.

Denial of justice through prolonged detention remained a problem. Although the CCP provides that a detainee cannot be held for longer than 18 months awaiting trial and sentencing, this has not been respected in practice (see section 1.e.). If the process is not completed in 18 months, the detainee may request release by a judge; however, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures kept some persons incarcerated for more than 18 months before trial.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their protection, on the orders of a social worker. There is no judicial review of such orders (see section 5).

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and inefficiency in the judicial system remained major problems. Poor pay and working conditions made judges and prosecutors susceptible to bribes.

The judicial system has three levels of courts: trial court, superior court, and the Supreme Court. The Supreme Court hears appeals in general, while the constitutional tribunal has original and appellate jurisdiction on constitutional matters.

The CCP provides for a system of transparent oral trials in criminal cases; requires that no pretrial detention exceed 18 months; provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed; and mandates a 3-year maximum duration for a trial.

The law provides that the prosecutor is in charge of the investigative stage of a case. The prosecutor instructs the police regarding witness statements and evidence necessary to prosecute. Counternarcotics prosecutors lead the investigation of narcotics cases. The prosecutor pursues misdemeanor cases (with possible sentences of less than four years) before a judge of instruction and felony cases (with possible sentences of more than four years) before sentencing courts, both of which features a five-member panel that includes three citizen members and two professional judges. During the year the Forensic Medical Institute opened, although the attorney general's office did not have the proper chemicals to begin conducting investigations.

Superior court review is restricted to a review of the application of the law. Supreme Court review is restricted to cases involving exceptional circumstances. During the superior court and Supreme Court reviews, the courts may confirm, reduce, increase, or annul sentences or provide alternatives not contemplated by lower courts.

*Trial Procedures.*—Defendants have constitutional rights to a presumption of innocence, to a speedy trial, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, and to an appeal. In practice the rights to an attorney and to a speedy trial were not protected systematically, although the CCP facilitated more efficient investigations, transparent oral trials, and credible verdicts.

The National Public Defense Service was established to provide indigent defendants with a defense attorney at public expense. However, continued budget shortages led to reducing the service's staff to 54 public defenders, 9 legal assistants, and 9 district directors. There was a particular shortage of public defenders in rural areas.



The CCP also recognizes the conflict resolution (community justice) traditions of indigenous communities, provided that the resolution does not conflict with the rights and guarantees established under the constitution.

The military justice system generally was susceptible to senior-level influence and tended to avoid rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report. The results are forwarded to a judicial advisor, usually at the division level, who then recommends a finding of either innocence or guilt. For major infractions, the case is forwarded to a military court. Authorities recognized conflicts over military and civilian jurisdiction in certain cases involving human rights. A 2004 constitutional court decision provides that military personnel should be tried in civilian courts for human rights violations. During the year the armed forces organized seven human rights seminars in different cities and worked to reform its military code and military prison system.

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

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and while the government generally respected these prohibitions, there were credible allegations of security forces making unauthorized entries into private homes in the Chapare and the Yungas. Residents in the coca growing areas generally were reluctant to file and pursue formal complaints against security forces. Those who were engaged in alternative development activities were also reluctant to pursue formal complaints against coca growers because of fear of reprisals by the coca syndicates.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

Privately owned newspapers frequently adopted antigovernment positions. However, there were frequent allegations of bias and corruption in the press, including reports that political candidates had to pay bribes for favorable elections coverage and to avoid negative press. Some independent media practiced self-censorship or did not report on certain stories for fear of being accused of either favoring, or waging a “dirty war” against political figures. Others complained that journalists’ unions protected journalists and editors with political biases who unduly influenced reporting. In September the Journalists’ Association’s Honor Court found major daily *El Diario* in violation of ethics rules.

State-owned and private radio and television stations generally operated freely. In contrast with 2004, there were no reported instances of journalists being threatened, injured, or held hostage by private individuals or groups critical of their reports.

On April 20, a military officer physically assaulted journalist Jose Luis Conde while he was recording the events of the 114th anniversary of the military school. The investigation was pending at year’s end.

Unlike in 2004, there were no reports that police forcibly expelled reporters covering the news.

The law provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from one month to two years. Insults directed against the president, vice president, or a minister, increase the sentence by one-half. Journalists accused of violating the constitution or citizens’ rights are referred to the 40-person Press Tribunal, an independent body authorized to evaluate journalists’ practices. Although cases rarely were brought before the tribunal, during the year the tribunal heard a case involving a political candidate’s defamation claim against a magazine.

The government prohibited the importation of pornographic books, magazines, and artwork.

## *b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of peaceful assembly, and the authorities generally respected this right in practice. While the law requires a permit for most demonstrations, security forces rarely enforced the law, and most protesters demonstrated without obtaining permits, frequently blockading major thoroughfares and highways.

On June 9, at least one person, miner Carlos Coro Mayta, died in Chuquisaca, and dozens of others were injured during episodes of social unrest (see section 1.a.). Some of the injuries were attributed to tear gas canisters, rubber bullets, and live ammunition used by security forces against protesters. Investigations into these in-

cidents remained pending at year's end. Demonstrators, particularly miners, often set off small sticks of dynamite during marches, resulting in injuries, usually to the person detonating the device.

*Freedom of Association.*—The law provides for freedom of association, and the authorities generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. Roman Catholicism predominates, and the constitution recognizes it as the official religion. The Roman Catholic Church received support from the government (approximately 300 priests received small stipends) and exercised a limited degree of political influence.

Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. The ministry is not allowed to deny registration based on an organization's articles of faith, but the legal process can be time-consuming and expensive, leading some groups to forgo registration and operate informally without certain tax and customs benefits. Most registered religious groups were identified as Protestant or evangelical.

*Societal Abuses and Discrimination.*—There was a small Jewish community. While no overt acts of societal violence were reported against the community, during the year one Jewish group continued to voice its concern over "skin head" groups who disseminated anti-Semitic hate mail on the Internet.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice. However, protesters blocked major highways at various times at different locations throughout the country. Blockades in La Paz, Chuquisaca, and Cochabamba by coca growers, the Movement Toward Socialism Party, miners, and social groups caused an estimated \$100 million (794 million bolivianos) of economic loss. Although the government did not revoke citizenship for political or other reasons, an estimated 792,700 citizens lacked basic identity documents, which prevented them from obtaining international travel documents and other government services.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 United Nations Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government has a system to determine those in need of refugee protection or asylum. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers; however, the government had not yet adjudicated the cases of any of the 22 persons who applied for refugee status in 2004, in part because of bureaucratic delays. Five persons applied for refugee status during the year, and the government provided refugee protection in three of those cases. While the law does not mention temporary protection, the government provided similar protection to approximately 30 individuals who did not qualify as refugees under the 1951 convention and the 1967 protocol by granting them tourist or work visas.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. However, approximately 400 thousand citizens of voting age lacked the identity documents necessary to vote. Political parties and citizens groups ranging from far left to moderate right functioned openly. Elections for national offices and municipal governments are scheduled to be held every five years.

*Elections and Political Participation.*—In national elections held on December 18, citizens elected Evo Morales Aima as president in a process generally considered free and fair, despite allegations of minor irregularities in the master voting list. Voter turnout reached a record-breaking high of 84.5 percent.

A law enacted by congress in 2004 to permit small citizen and indigenous groups that met certain criteria to participate in politics as political parties significantly impacted voter participation in the December 18 election.

Although the law requires that every third candidate appearing on a political party's slate be female, the actual number of women holding public office was 24 percent. Female politicians reported that political parties frequently adhered to the quota in submitting their candidate lists, but subsequently pressured female candidates to resign their candidacy prior to elections.

In addition every other candidate on municipal election ballots, beginning with the second candidate, must be a woman, a requirement that increased female representation to approximately 30 percent of municipal council positions. There were 28 women among the 157 deputies and senators (prior to the December 18 elections) and 3 women in President Rodriguez's 18-member cabinet. There was 1 indigenous member of the cabinet, and the number of indigenous members of the congress was estimated at 17 percent, a figure difficult to confirm because designation as indigenous is self-declared.

*Government Corruption and Transparency.*—In cases involving allegations of corruption against public officials, congress must give its approval before prosecutors can institute legal proceedings. During the year congress approved seven such cases of corruption against former governors Luis Alberto Valle, Rolando Arostegui, Gustavo Aguirre and former ministers Tonchi Marinkovic, Fernando Kieffer, Edgar Millares, and Carlos Iturralde. There also were nepotism scandals in congress and corruption cases involving senior police officials, most of whom were fired. NGOs involved in land takeovers and disputes also were suspected of illegal gain.

There was no specific information available on laws providing access to government information or whether the government provided such access in practice.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, NGOs and the ombudsman complained that occasionally government security forces and ministries refused to cooperate with their investigations. Security forces continued to provide credible evidence that radical groups used some NGOs as a cover for subversive activities. For example, in 2003 police in El Alto arrested Colombian National Liberation Army suspect Francisco "Pacho" Cortes, who, although posing as a human rights worker, possessed narcotics, seditious material, weapons, and bomb-making equipment. On January 10, Cortes obtained provisional liberty with the help of NGOs that paid for his bail. At year's end he remained under a modified house arrest.

The human rights ombudsman is a position with a 5-year term established in the constitution. Congress chooses the ombudsman, who is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the government. The ombudsman operated without party influence and with adequate resources from the government and foreign NGOs. Indigenous persons filed most of the complaints received by the ombudsman.

There were no new developments in the congressional human rights committee investigation of alleged human rights abuses committed in 2003, including those in the Chapare and those related to the social unrest.

The CCJHR continued to be active in the Chapare region and moved to expand its role as an "Integrated Justice Center" to include conflict resolution. New offices were opened in the city of El Alto and the Yungas. These offices reported their findings to the Vice Ministry of Justice in the Ministry of the Presidency, disseminated human rights information, accepted complaints of abuses committed, kept records, and referred complaints to the public ministry. The CCJHR also housed a medical forensic expert and an investigative staff to review complaints. The majority of cases received during the year related to interfamilial violence against women and children.

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

Although the law prohibits discrimination based on race, gender, language, or social status, there was significant discrimination against women, indigenous people, and the small black minority.

*Women.*—Violence against women was a pervasive and underreported problem. According to the Center for the Information and Development of the Woman (CIDEM), 70 percent of women were abused physically or psychologically. CIDEM noted that the statistics "did not reflect the full magnitude of the problem of violence against women" and that "a great number of women" did not report the aggression they faced on a daily basis.

The family laws prohibiting mental, physical, and sexual violence provided for fines or up to four days in jail, unless the case becomes a public crime subject to the Penal Code; however, these laws were enforced irregularly. The government took few meaningful or concrete steps to combat domestic violence.

Rape also was a serious but underreported problem. The law defines two types of criminal cases. In private criminal matters, the victim brings the case against the defendant; in public criminal matters, a state prosecutor files the criminal charges. The CCP makes rape a public crime. The law, as modified during the year, criminalizes statutory rape, with penalties of 10 to 20 years for the rape of a child under the age of 14. In cases involving consensual sex with an adolescent of 14 to 18 years of age, the penalty is 2 to 6 years' imprisonment. Forcible rape of an adult is punished by sentences ranging from 4 to 10 years' imprisonment. Sexual crimes against minors automatically are considered public crimes in which the state presses charges.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor (see section 5, Trafficking).

The CCP considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but it generally was acknowledged to be widespread.

Legal services offices devoted to family and women's rights operated throughout the country. The Maternal and Infant Health Insurance Program provided health services to women of reproductive age and to children under the age of five.

Women were entitled to the same legal rights as men; however, many women were unaware of their legal rights, although the government sponsored seminars to educate them. The Vice Ministry of Women in the Ministry of Sustainable Development protects their legal rights. Women generally did not enjoy a social status equal to that of men. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas, for instance, traditional practices restricting land inheritance for women remained a problem. The minimum wage law treats men and women equally; however, women generally earned less than men did for equal work. Women sometimes complained that employers were reluctant to hire them because of the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas, in rural areas, the vast majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the informal economy.

Leading women's rights groups included the Campesinas of Bolivia Bartolina Sisa, which focuses on rural indigenous women, and CIDEM.

*Children.*—The government's commitment to children's rights and welfare was insufficient to improve conditions appreciably. There are seven Defender of Children and Adolescents offices to protect children's rights and interests.

Public schooling was provided up to age 17 or grade 8; the law requires all children to complete at least 5 years of primary school; primary education was free and universal. Enforcement of the education law was lax, particularly in rural areas, where more than half of the primary schools offered only three of eight grades. An estimated 50 percent of children completed primary school, and an estimated 26 percent graduated from high school. There were no significant gender differences in access to basic education, although girls continued to drop out at a higher rate than boys, particularly in the rural areas.

Medical care is free up to age five, and there was no apparent difference in such access based on gender. Pilot centers offered subsidized health care to children over the age of five, although clinics often were not available in rural areas. Unlike in previous years, there were no reports that preference was given to boys regarding medical expenditures in rural areas. Many children, particularly from rural areas, lacked birth certificates and the identity documents necessary to secure social benefits and protection. The government, with help from foreign governments and NGOs, made some progress providing these documents free of charge.

Physical and psychological abuse in the home was a serious problem. Corporal punishment and verbal abuse were common in schools. Children from 11 to 16 years of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. The UN Children's Fund (UNICEF) estimated that approximately 13 thousand children lived in institutions where their basic rights were not respected. There also were many children living on the streets of major cities.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries (see section 5, Trafficking).

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

Several NGOs had active programs to combat child prostitution. The government's plan to combat child labor included a public information campaign against child prostitution and raids on brothels.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were credible reports that persons were trafficked to, from, or within the country.

The law specifically criminalizes trafficking in persons for the purpose of prostitution and provides for terms of imprisonment beginning at 4 years and ranging up to 12 years when the victim is less than 14 years of age. The government investigated 44 cases of trafficking in persons; while there were some arrests, there were no convictions.

The Ministry of Government, including the national police and the immigration service, the ministries of foreign affairs, labor, and sustainable development, as well as prefectures and municipalities, are legally responsible for handling some aspect of antitrafficking efforts. In August a presidential decree gave the Ministry of the Presidency, via an inter-institutional committee, responsibility for trafficking matters.

The country is a source for men, women, and children trafficked for forced labor and sexual exploitation to Argentina, Chile, Brazil, Spain, and the United States; however, there were no reliable estimates on the extent of the trafficking. Faced with extreme poverty, many citizens were economic migrants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, particularly from indigenous ethnic groups in the altiplano region, were at greater risk of being trafficked. Children were trafficked within the country to work in prostitution, mines, domestic servitude, and agriculture, particularly harvesting sugar cane and Brazil nuts. Weak controls along its extensive five borders made the country an easy transit point for illegal migrants, some of whom may have been trafficked. Commercial sexual exploitation of children also remained a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims initially were willing economic migrants who were duped or later coerced into accepting jobs that turned out to be forced labor.

Some government officials reportedly took bribes to facilitate smuggling and the illegal movement of people; however, the government did not condone or facilitate trafficking and removed at least two high-level immigration officials on suspicion of corruption. It was not known whether any of those dismissed were accused of involvement with trafficking. The government also took measures, such as instituting a system of checks and balances at official border crossings and airports, to reduce corruption among judicial officials responsible for authorizing unaccompanied travel abroad of those under 18 years of age.

During the year the government established technical judicial police units specializing in trafficking in persons in La Paz, Cochabamba, and Santa Cruz and assigned investigators and prosecutors to handle trafficking-related cases. The government also promoted educational measures to address trafficking, and the Ministry of Sustainable Development and NGOs conducted informational campaigns on the rights of children and women. The government, in conjunction with UNICEF, provided free birth and identity documents to thousands of undocumented citizens to reduce their vulnerability to being trafficked. In April the municipality of La Paz opened a shelter for abused and exploited children that also provided services for young trafficking victims.

The Defenders of Children offices in municipalities, sometimes in cooperation with NGOs, managed scattered assistance programs for victims.

The NGOs *Terre des Hommes*, International Organization of Migration, and Save the Children conducted public awareness campaigns on trafficking of children. In November and December the government, with the support of the International Labor Organization (ILO) and the Organization of American States, conducted a radio and television public awareness campaign. The government also established and widely publicized a "123 hotline" for reporting trafficking in children.

*Persons with Disabilities.*—There was no official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. However, societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. The Law on Disabilities requires wheelchair access to all public and private buildings, duty

free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille.

The electoral law requires accommodation for blind voters; however, in general, there were no special services or infrastructure to accommodate persons with disabilities. A 2003 presidential decree requiring that 4 percent of the government's new hires be persons with disabilities had not been strictly enforced by year's end.

The National Committee for Incapacitated Persons was responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—There was societal discrimination against the small black minority, who generally remained at the low end of the socioeconomic scale and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 25 thousand blacks lived in the Yungas region of the Department of La Paz.

*Indigenous People.*—In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. Indigenous protesters were major protagonists in the events leading up to the 2003 resignation of President Sanchez de Lozada and the June resignation of President Mesa. The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. Indigenous people protested the government's failure to provide them with title to all of their claimed territories; they also objected to outside exploitation of their resources. Indigenous peasants illegally occupied several private properties belonging mostly to former government officials, often with the backing of the Landless Movement.

Indigenous groups used the Popular Participation Law to form municipalities that offered them greater opportunities for self-determination. Several political parties and citizens' groups and a number of NGOs were active in promoting the rights of indigenous peoples, although progress was minimal. The CCP recognized the conflict resolution traditions of indigenous communities (see section 1.e.).

Indigenous people continued to be underrepresented in government and politics, and indigenous groups bore a disproportionate share of poverty and unemployment. In addition government educational and health services were not available to many indigenous groups living in remote areas (see sections 2.d., 3, and 4).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—While the law allows workers have to form and join trade unions, in practice, this right was limited due to inefficient labor courts and inadequate government regulation. Approximately 25 percent of the workers in the formal economy, which employed approximately 30 percent of all workers, belonged to unions.

Workers may form a union in any private company of 20 or more employees; however, an estimated 70 percent of workers were employed in micro or small enterprises with fewer than 20 employees. Public sector workers also have the right to form a union. The law requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the government to dissolve unions by administrative fiat.

Complaints of antiunion discrimination are administered by the National Labor Court, which can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders stated that problems often were moot by the time the court ruled.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers with the right to organize and bargain collectively; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the government, was limited. Most collective bargaining agreements were restricted to wages.

The law provides most workers with the right to strike but first requires unions to revert to government mediation; the law requires the same of employers before they initiate a lockout.

Public services, including banks and public markets, are prohibited from striking; however, workers in the public sector (including teachers, transportation workers, and health care workers) frequently did strike. Public sector employees have not been penalized for strike activities in recent years. Solidarity strikes are illegal, but the government neither prosecuted nor imposed penalties in such cases.

There were numerous strikes organized by a variety of different sectors during the year. Massive strikes and blockades, which included labor movement participation, contributed to the resignation of President Mesa in June.

There are no special laws or exemptions from regular labor laws in the seven special duty-free zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers (see sections 5 and 6.d.).

The ILO estimated that more than seven thousand Guaranis lived in a type of indentured servitude in extremely remote parts of Chuquisaca. The families worked land owned by landlords in exchange for housing and food, but were not paid the minimum wage. As a result, they incurred large debts to their landlords, and were not permitted to leave the property without satisfying their debt. These families lived in very poor conditions, without water, electricity, medical care or schools. The human rights ombudsman conducted an investigation into this situation, and on November 21, released a formal proclamation urging regional and national governments to address the problem.

The ILO reported that between 26 thousand and 30 thousand persons, mostly of indigenous origin, were victims of forced labor, harvesting Brazil nuts in Beni Department. The work was seasonal, lasting approximately three months per year. During that time landlords sold basic foodstuffs to workers at inflated prices; workers subsequently incurred large debts, and were not permitted to leave the property until the debt was satisfied. Similar conditions existed in the sugar harvest industry in the Santa Cruz Department. Forced labor also occurred on individual farms in remote regions (principally in the Chaco region). The government worked with the ILO to address these issues.

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

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a serious problem. The law prohibits all work for payment by children under the age of 14; however, in practice, the Ministry of Labor generally did not enforce child labor laws, including those pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for 12- to 14-year-olds under various formal but poorly enforced restrictions, which have been criticized by the ILO and were considered by some to be tantamount to bondage (see section 6.c.).

The Ministry of Labor is responsible for enforcing child labor provisions but did not enforce them throughout the country.

According to government and UNICEF statistics, some 800 thousand children and adolescents between the ages of 7 and 19 were engaged in some type of work, which represented an estimated 32 percent of this age group. Although the law prohibits persons under 18 years of age from work in the sugarcane fields, approximately 10 thousand rural migrant children worked in this activity. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mines and other dangerous occupations in the informal sector. Narcotics traffickers used children to transport drugs. Child prostitution remained a problem (see section 5).

The traditional practice of *criadito* service persisted in some parts of the country. *Criaditos* are indigenous children of both sexes, usually 10- to 12-year-olds, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. Such work is illegal, and there were no controls over the benefits to, or treatment of, such children.

The government devoted minimal resources to investigating child labor cases, but NGOs and international organizations, such as UNICEF, supplemented the government's efforts.

The government continued its efforts to eliminate child labor in its worst forms, in particular, working with NGOs to discourage the use of child labor in the mining and sugar sectors by participating in internationally funded programs to provide educational alternatives to children who otherwise would work in mines or in sugarcane fields.

*e. Acceptable Conditions of Work.*—The government established the minimum wage for the public and private sectors by supreme decree following traditional negotiation with the Central Bolivian Workers Union. The national minimum wage was \$55 (436 bolivianos) per month and did not provide a decent standard of living for a worker and family. Most formal sector workers earned more, although many

informal sector workers earned less. While the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. The minimum wage did not cover the large number of workers in the informal sector.

Labor laws, which were not effectively enforced, establish a maximum workweek of 48 hours, limit women to a workday 1 hour shorter than that of men, prohibit women from working at night, mandate rest periods, and require premium pay for work above a standard workweek.

The Ministry of Labor's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards were enforced poorly. While the government did not maintain official statistics, there were reports that workers died due to unsafe conditions, particularly in the mining and construction sectors. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards. The Ministry of Labor maintained a hot line for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector particularly were poor. Although the State Mining Corporation has an office responsible for safety, many mines were dangerous and unhealthy. In some mines operated as cooperatives, miners earned less than \$2.75 (21 bolivianos) per 12-hour day. Miners in such cooperatives worked in dangerous, unhealthy conditions with no scheduled rest for long periods. The law does not specify when workers may remove themselves from dangerous situations.

## BRAZIL

Brazil is a constitutional federal republic with a population of approximately 186 million. In 2002 voters elected President Luiz Inacio Lula da Silva ("Lula") of the Workers' Party (PT) to a 4-year term in a free and fair election. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The federal government generally respected the human rights of its citizens; however, there continued to be numerous, serious abuses, and the record of several state governments was poor. The following human rights problems were reported:

- unlawful killings and killings due to excessive force committed by state police forces (both civil and military)
- police involvement in killings for hire and death squad executions of suspected criminals, persons considered undesirable, indigenous people, and labor activists
- police torture and beating of suspects and detainees
- failure to act in numerous human rights violations by state authorities, which perpetuated a climate of impunity
- harsh and often life-threatening prison conditions
- frequent torture and beatings of prison inmates, including in juvenile detention centers
- failure to ensure the right to a fair and speedy trial
- investigations of human rights abuses by police officials normally limited to internal police reviews and seldom subject to independent review
- overloaded military police tribunals that rarely investigated cases thoroughly, seldom convicted abusers, and allowed impunity for many military and civil police officers
- violence and discrimination against women
- child abuse and prostitution
- trafficking in persons, particularly women and children for the purpose of prostitution and slavery
- failure to protect indigenous people from outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas
- societal discrimination and occasional violence against Afro-Brazilians and homosexuals
- persistent intimidation and killings of land reform activists and rural labor union organizers and their agents
- widespread forced and slave labor with virtual impunity for the perpetrators



- widespread child labor

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit politically motivated killings, but unlawful killings by state police (military and civil) were widespread.

There continued to be a high rate of police killings. Government officials (including the president) acknowledged the continued severity of the problem of unlawful killings by law enforcement officials.

Amnesty International (AI) reported that police killed approximately two thousand persons a year in Rio de Janeiro and Sao Paulo states. The Sao Paulo State Secretariat for Public Security reported that Sao Paulo police (civil and military) killed 264 civilians in the first 9 months of the year compared with 322 civilians killed during the first 8 months of 2004; off-duty policemen were responsible for 23 of the killings. On December 4, in Niteroi, Rio de Janeiro State, military police killed five people in the “Morro do Estado” shantytown; an investigation continued at year’s end.

Rio de Janeiro’s Security Secretariat reported that state police killed 594 persons during the first 8 months of the year, compared with 983 killings for all of 2004. However, reports from the Center for Studies of Security and Censorship at Candido Mendes University estimated that approximately three thousand people were killed by police in Rio de Janeiro State during the year.

In many cases police officers employed indiscriminate lethal force during apprehensions, killing civilians despite the lack of any danger to themselves. In some of these cases, the civilian’s death followed severe harassment and even torture by law enforcement officials (see section 1.c.).

On July 22, civil police killed five persons ages 14 to 22 during an antidrug operation in the Morro do Samba area in Diadema, Sao Paulo City. While a police internal affairs investigation continued, the five suspects remained on duty.

In July 2004 military policeman Marcos Aurelio Epifanio shot and killed university student Fernando Santos Maia da Conceicao in Brasilia. The policeman stated that he had been informed about a gas station robbery and that the suspects reportedly drove a car identical to Maia da Conceicao’s. On February 10, the grand jury’s prosecutor charged Epifanio with murder, and the trial remained pending at year’s end.

Trials remained pending for military policeman Fabio Trevisoli charged with involuntary manslaughter and for three military policemen charged with prevarication and failure to administer first aid in the May 2004 Sao Paulo City supermarket killing of Raimunda Furtado, who was mistaken for a robber. Trevisoli was dismissed from his position.

Unlike the preceding year, there were no reports of extrajudicial killings by police in juvenile detention centers.

The use of torture by police sometimes led to the death of the victims (see section 1.c.). On September 31, union leader Jair Antonio da Costa died after being strangled with a police stick during a demonstration in Sapiranga, Rio Grande do Sul. Major Eduardo Pitam, the operation’s commander, and five others were fired; six additional officers were free and awaited trial at year’s end.

Some members of the police continued to exploit an overall climate of violence to administer “rough” justice to those whom they consider socially undesirable.

There were numerous allegations of police killings and violence in Sao Paulo City, particularly in the Diadema and Sapopemba area. On July 4, Tereza Rodrigues Faria and her sons Eduardo and Fabio were shot and killed in front of their house in the Jardim Portinari neighborhood in Diadema. In late August authorities charged military police third sergeant Ricardo Silva dos Santos with three counts of homicide for killing Francisca and her two sons and three counts of attempted homicide for shooting and injuring Francisca’s husband and two other children. Five other police officers were accused of involvement in or failure to stop the crime. The case was pending at year’s end.

On November 7, the Ministry of Justice rejected formal charges brought by the public prosecutor against five military police and one private security guard in the August 2004 killing of seven homeless persons in Sao Paulo. According to the Sao Paulo ombudsman, the judge reasoned that there was no strong evidence linking the accused to the crime. The accused have retained their positions.

Three military police were convicted in the 2004 street killing of an Afro-Brazilian dentist in Sao Paulo. Two were convicted of homicide and sentenced to 17½ years

in prison; the third officer received a sentence of 7½ years' imprisonment for illegal possession of firearms.

No further information was available regarding the police internal affairs investigation into the involvement of 13 military police arrested for the 2003 killing of William Douglas Santos and Fabricio Francisco da Conceicao in Campinas, Sao Paulo State.

Numerous credible reports indicated the continuing involvement of state police officials in revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (see section 1.e.).

Death squads with links to law enforcement officials carried out many killings, in some cases with police participation. The National Human Rights Secretary stated that death squads operated in 15 states. Credible, locally-based human rights groups reported the existence of organized death squads linked to police forces that targeted suspected criminals and persons considered "undesirable"—such as street children—in almost all states and the Federal District.

On March 31, a military police death squad invaded two suburbs in the Baixada Fluminense neighborhood near Rio de Janeiro City, and killed 29 persons in drive-by shootings to retaliate against the "Dagger in the Flesh" operation, a government initiative to eliminate extrajudicial killings and corrupt police practices. Charges against two officers arrested on April 3 were dismissed; the investigation of the remaining nine continued at year's end.

On July 16, 6 military police, 2 former policemen, and 3 lawyers were among 32 persons arrested in Curitiba, Parana State. Those arrested were accused of forming a death squad that killed 30 persons, including police commander Pedro Plocharski, in January.

On July 30, four youths were killed in separate municipalities of the greater Rio de Janeiro City of Baixada Fluminense. Two of the victims, 9-year-old Leonardo Andre de Tulio and his 12-year-old brother Claudio Andre de Tulio, were found dead in Duque de Caxias. The burned bodies of a third brother, 19-year-old Carlos Alberto Ferreira de Paula, and a family acquaintance, 16-year-old Davi dos Santos Matias, were later discovered in Xerem. Compelling evidence suggested that a Baixada Fluminense military police death squad committed the killings. Investigators were also looking into a possible link between these killings and the killing of Matias' sister, allegedly by local drug traffickers, two weeks earlier. The cases remained under investigation at year's end.

There was no information on the civil and military police internal affairs investigations initiated in May 2004 into cases of death squad activity in Guarulhos and Ribeirao Preto, both large cities in Sao Paulo State.

The 2003 military police internal affairs investigation into the existence of a police death squad that allegedly targeted and killed troublemaking youths in Guarulhos, Sao Paulo State, continued. The case involving charges against 2 military policemen and 2 private security guards, indictments of 11 other policemen, and investigations of an additional 27 for killing 3 adolescents in 2003 was closed due to a lack of evidence.

No additional information was available regarding the Sao Paulo State civil police internal affairs office investigation of former civil policemen Thiago Ferreira da Silva Moreira and Ricardo Jose Guimaraes for the 2003 death of Thiago Xavier Stefani and their participation in a Ribeirao Preto death squad linked to 30 other deaths. Moreira, who was in prison for a separate crime, was released in May 2004, his trial remains pending. Guimaraes, who was convicted for killing one person, escaped from the state police detention center in June and remained at large. There was no further information regarding the internal affairs investigation of four other civil policemen in the case.

There were new developments in the 2003 killings in Bahia and Paraiba states of two witnesses, purported to have information about death squads, who were killed shortly after meeting with the visiting UN special rapporteur on summary executions. In the 2003 killing of Flavio Manoel da Silva in Paraiba State, authorities arrested prison agent Lucival de Moraes Lima and private security agent Claudio Roberto Borges. In December 2004 a grand jury declared Lima innocent due to a lack of evidence. Borges' trial was postponed, and no developments have been reported. Two military police officers who were also accused of participating in the death squad that killed Bispo were arrested, but no further developments were reported in their cases.

There were numerous killings of indigenous people, mostly related to land disputes (see section 5), and of rural activists and labor union organizers (see section 6.a.). AI and other credible sources indicated that these killings often occurred either with the participation, knowledge, or acquiescence of state law enforcement officials. On April 5, federal police arrested former military police lieutenant colonel

Wasdir Coppetti Neves and five other military police officers for creating a paramilitary group to target landless rural workers in Parana State. On June 9, legal proceedings began in federal court against 19 persons suspected of being involved with the paramilitary group.

In December the Pastoral Land Commission (CPT) reported that 37 rural workers were killed from January to November. From January to August, 27 rural workers were victims of attempted killings, 114 received death threats, 2 were reportedly tortured, 52 were physically assaulted, 114 were imprisoned, and 80 were wounded in 794 land conflicts involving 615,560 people.

The Ombudsman's Office of the Ministry of Agrarian Development reported 66 rural killings (12 as a direct result of land conflict, 34 not directly caused by land conflict, and 20 still under investigation) between January 1 and October 30.

On February 12, local gunmen shot and killed Catholic nun Dorothy Mae Stang in Anapu, Para State. Stang had received a number of death threats in recent years and met with federal authorities to complain about recent threats against her and her colleagues during the week of her death. Stang worked with landless peasants and supported efforts of the government's National Institute for Colonization and Agrarian Reform to place the landless on unused and underutilized land. After an investigation, the state civil police recommended indictments against five suspects, who were arrested and awaited trial. In June the government announced that the suspects would be tried at the state, not federal, level despite requests from Stang's family and the prosecutor general that the case be federalized due to possible corruption in Para State's judicial process. Three suspects appealed to the Para State Court of Justice and won't be tried until the appeal is considered. Two others were convicted and sentenced on December 9: Rayfran das Neves Sales was sentenced to 27 years and Clodoaldo Carlos Batista to 17 years in prison.

On February 23, 61-year-old environmentalist Dionisio Julio Ribeiro Junior was killed where he worked at the Rio de Janeiro State "Tingua" biological reserve, near Rio de Janeiro City. Tingua Reserve and Brazilian Environmental Agency (IBAMA) employees received death threats previously, but local authorities took no action. In March federal police arrested Leonardo de Carvalho Marques after receiving an anonymous tip on a police hot line. Leonardo confessed to the crime but did not convince public security authorities that he had acted alone. Some allegedly corrupt IBAMA employees were also under investigation in the case.

On July 25, Catholic priest Paulo Henrique Keler Machado was shot to death in Nova Iguaçu, near Rio de Janeiro City. While local police detectives believed that the killing was the result of an armed robbery, church officials believed that Machado was killed due to his support of the investigation of the 29 people killed in the Baixada Fluminense massacre. The case remained under investigation at year's end.

On March 4, authorities arrested 11 military police in Natal, Rio Grande do Norte State, on suspicion of involvement in at least 26 killings while participating in an extermination group over a 3-year period. Eleven other military policemen were detained on suspicion of collusion.

The investigation continued in the 2004 killing of a Landless Rural Workers' Movement (MST) activist in Parana State.

In September two police officers were convicted and sentenced to 25 years in prison for the 2003 murder in Vitoria, Espirito Santo State, of a judge who had been investigating organized crime and human rights abuses among police officials.

In September state courts received testimony in the 2003 killings of four MST members in Foz do Jordao, Parana State. The accused were awaiting trial at year's end. There were no known developments in the 2003 killing of a rural workers' association leader in Tamandare, Pernambuco State.

In June a judge in a lower-instance court in Campinas, Sao Paulo State, summoned witnesses in the case of the antiskidnapping police investigator accused of the 2002 killing of Jorge Jose Martins, and the trial remained pending at year's end.

There were reliable reports of killings of government officials by those who had vested interests in the officials' professional activities. Six of the 10 suspects in the January 2004 killing of 4 labor ministry inspectors in Unai, Minas Gerais State, remained in jail pending trial. The two men suspected of ordering the killing were not arrested; one of them was elected mayor of Unai. The inspectors were investigating slave labor practices at local farms.

There were killings by vigilante groups who invaded prisons. On July 18, a mob invaded a jail in Igarape-Açu, Para State, and beat to death a 17-year-old accused of killing a local merchant; 50 military police from a neighboring municipality were dispatched to Igarape-Açu to restore peace and to protect two others suspected of killings. On July 23, a mob shot, lynched, and nearly quartered a man suspected of attempting to rape a woman in Belo Horizonte, Minas Gerais. On August 15, a

50-person mob invaded a jail in Gandu, Bahia State, and beat to death Carlos Eduardo do Nascimento and Lucas Medeiros de Souza who were being held for suspected killings; only one of the mob members had been detained by year's end.

AI reported that criminal gangs and drug factions controlled some *favelas* (shantytowns), particularly in the city of Rio de Janeiro, through intimidation and violence. Lynching was common, especially against those accused of rape or other crimes that go unpunished in these communities due to the absence of police agents.

*b. Disappearance.*—While there were no reports of politically motivated disappearances, uniformed and civil police involvement in extortion and kidnappings for ransom was widespread. On August 8, Rio de Janeiro State authorities arrested civil policeman Adamo Ricardo Fernandes for kidnapping a doctor from Resende, Rio de Janeiro. The doctor was kept in the policeman's house in the neighboring city of Volta Redonda. Investigations into four other alleged kidnappings involving Fernandes continued at year's end. In December drug traffickers from the shantytown Parada de Lucas wearing police uniforms, invaded the shantytown Vigario Geral, kidnapped, tortured, and killed eight young people (15 to 24 years of age). One resident told police that police provided support for the drug traffickers. The case was under investigation at year's end.

No further information was available regarding the November 2004 case in which police arrested military policeman Anderson Gonçalves Viana and his brother-in-law as suspects in the robbery of a building during which the occupants were held hostage.

There were no known developments regarding the case of two Sao Paulo civil policemen from the antikidnapping division and a military policeman who were charged with kidnapping for ransom two narcotics traffickers.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits torture and provides severe legal penalties for its use, torture by police and prison guards remained a serious and widespread problem.

From January through September, the Sao Paulo State Police Ombudsman's Office received 17 complaints of torture. The nongovernmental organization (NGO) Christian Association for the Abolition of Torture estimated that it had received complaints of 650 cases of torture in the Sao Paulo State prison system from the end of 2002 until mid-year, approximately 60 of which were received from January to September. The NGO Christian Association for the Abolition of Torture estimated that it received approximately 25 complaints of torture in the Sao Paulo prison system during the year. Common torture methods included open-handed blows, beatings with wood or other objects, and collective punishment.

The Center for the Defense of Human Rights in Matto Grosso do Sul State received 36 reports of torture during the first 6 months of the year; one case resulted in a conviction. The center stated that many victims did not report incidents of torture for fear of reprisal.

On June 14, authorities sentenced two civil police officers to 8 years and 5 years 4 months in prison, respectively, for beating and torturing a 15-year-old boy in Xinguara, Para State, in 1999. The convicted officers remained free pending their appeal, despite fears that those involved in obtaining the conviction of the two officers were at risk of reprisals and intimidation.

During the year the National Movement for Human Rights together with the Chamber of Deputies' Human Rights Commission reported that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that most victims were young, poor, Afro-Brazilian men from less-developed regions; it reported an average of 150 cases per month. Most reports came from remote cities in the interior where low-ranking police were in charge.

The state public prosecutor for children and youth (responsible for defending the rights of incarcerated youth) was involved in 26 ongoing investigations into torture and mistreatment claims in Sao Paulo's juvenile detention system (FEBEM). According to the public prosecutor, there were 19 ongoing criminal cases against 220 former or current FEBEM employees who were accused of torture.

On January 11, FEBEM Vila Maria employees reportedly beat and tortured inmates. On January 13, 16 FEBEM employees were arrested and provisionally imprisoned, while 7 evaded arrest; 55 were indicted on charges of torture, failure to prevent torture, and related charges. Sao Paulo State authorities continued their investigation at year's end.

In June Federal District Attorney General Rogerio Schietti presented an analysis of 711 complaints of torture received by the National Torture SOS hot line between 2001 and 2003. The analysis classified 62 of the complaints as torture, of which 45 percent occurred in prisons, 33 percent in jails, and 22 percent in public areas. In 73 percent of the cases, torture had been used as a "punitive or preventive" meas-

ure. In the Federal District, beating was the method of torture in 72 percent of the cases, but psychological intimidation, food deprivation, water torture, and electrical shocks also occurred.

Federal, state, and military police often enjoyed impunity in cases of torture, as in other cases of abuse (see section 1.e.).

The 2004 case of five individuals who alleged that military police officers in Sao Bernardo do Campo, Sao Paulo, regularly tortured them over a period of 112 days remained pending at year's end. According to the NGO Christian Association for the Abolition of Torture, the four policemen charged in the case were released, pending the trial's outcome.

No new information was available regarding the criminal investigation into the public prosecutor's charges that in July 2004 FEBEM's Raposo Tavares unit 27 tortured youthful inmates by burning them with fireworks. The unit director was dismissed in November.

In July Delegado Marco Tulio Fadel, accused of detaining and torturing adults and adolescents in 2003 at the Igarape police station in Belo Horizonte, Minas Gerais State, was sentenced to 16 years' imprisonment.

In some cases, sexual orientation or gender identity might have played a role in cases of torture and cruel treatment (see section 5). NGOs confirmed that police committed abuse and extortion directed against transvestite prostitutes in the cities of Rio de Janeiro, Belo Horizonte, and Salvador.

While an internal civil investigation absolved five civil Anti-Kidnapping Unit policemen on charges of torturing three individuals in the Sapopemba neighborhood of Sao Paulo City in 2003; a trial on those charges against four policemen and a police clerk remained pending at year's end.

*Prison and Detention Center Conditions.*—Prison conditions throughout the country often ranged from poor to extremely harsh and life threatening. Prison riots were frequent and often violent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (see section 1.a.). In November two brothers were killed during a rebellion at Rubens Quintella prison in Maceio State, one by decapitation. The riot was sparked by prisoner complaints of penitentiary overcrowding and the slow pace of judicial processes. The poor working conditions and low pay for prison guards also encouraged widespread corruption. Poor record keeping resulted in the detention of many inmates beyond their sentences.

Severe overcrowding in prisons and police detention centers was prevalent and was worst in states with the largest prison populations, such as Rio de Janeiro and Sao Paulo. According to the Ministry of Justice, at year's end there were 342,388 prisoners in a system designed to hold 211,255. Construction of new penitentiaries continued but was inadequate to alleviate overcrowding. According to the administrative director of the Sao Paulo State Secretary Administration, 45 percent of the state's prisons were overcrowded. The Pinheiros Women's Facility in Sao Paulo City held 1,261 detainees in a building designed to hold 512. Overcrowding was also endemic in prisons in the Northeast.

Prisoners were subjected to unhealthy medical and sanitary conditions. Scabies and tuberculosis, HIV/AIDS, and hepatitis, were widespread in Sao Paulo State prisons. According to local NGOs, infectious diseases, such as AIDS and tuberculosis, reached endemic levels among prisoners. The HIV/AIDS infection rate among prisoners was between 20 and 30 percent; infected prisoners were eligible to receive antiretroviral cocktails. The Ministry of Health reported the frequent incidence of skin infections, respiratory problems, HIV/AIDS, sexually transmitted diseases, and tuberculosis among the general prison population of Sao Paulo State. The Catholic Church's Ministry for the Incarcerated in Sao Paulo reported that in several of the city's police jails, most detainees suffered from skin or respiratory illnesses, and prison administration officials reported that many prisoners who transferred into the Sao Paulo penitentiary system became infected in police jails. Denial of first aid and other medical care sometimes was used as a form of punishment.

Overcrowding remained a problem in police jails and penitentiaries. Sao Paulo State has closed many of its jails in recent years, and many incoming detainees were held in new "Provisional Detention Centers" (CPDs) administered by the Sao Paulo State penitentiary system rather than by the Secretariat for State Security. Women were more likely than men to remain in facilities after sentencing due to severe space shortages in women's prisons. The NGO Christian Association for the Abolition of Torture reported that the deactivation of local jails led to increased overcrowding in the prisons and CPDs, particularly in provincial cities and towns in Sao Paulo State. The NGO reported problems of overcrowding, lack of medical

care, lack of work and educational opportunities, and prisoner abuse in all types of detention facilities.

An authoritative source stated that between 6,500 and 7,000 individuals were held in pre-sentencing facilities. The Interstate Police Prison (POLINTER), a pre-sentencing facility in the Gamboa Port Zone in Rio de Janeiro City, with a design capacity of 500 held an estimated 1,500 detainees. Approximately 120 convicted detainees remained at POLINTER awaiting transfer to prison. After an unannounced visit to POLINTER on May 25, federal deputies Geraldo Moreira and Alessandro Molon prepared and presented to the State Commission on Human Rights a report, *Monster Factory*, which detailed living conditions in POLINTER.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture continued to pervade Sao Paulo's FEBEM juvenile detention centers. During the year a series of simultaneous rebellions and revolts occurred in various FEBEM units in Sao Paulo City. An inmate died and several were injured during a rebellion at the Tatuape unit on January 13. Then-FEBEM president Alexandre de Moraes suspected that the rebellion was provoked by guards in retaliation for the arrest of their colleagues. On March 11, Tatuape inmates escaped from the complex. An inmate died in November following a fall from a roof during a November 22 riot at the Tatuape complex. The riot resulted in injuries to 55 persons (24 inmates and 31 employees). The Sao Paulo FEBEM system had more than six thousand inmates and accounted for more than half of the country's youth prison population. By law, detention facilities such as FEBEM must separate inmates over age 18 from minors, but not all units did so. Females and males were held in separate FEBEM units.

There were no further developments on actions taken by the police investigations department in response to the public prosecutor's 2004 investigation regarding allegations of torture at FEBEM's Tatuape unit.

There were no known developments in the pending July 2004 case in which the human rights NGO Conectas won a suit against the Tatuape facility for not complying with municipal building codes and FEBEM for a suspension of the court order to bring the unit up to municipal fire and construction codes.

In December 2004 Human Rights Watch (HRW) issued a report that documented abuses and poor health and sanitary conditions in juvenile detention centers in Rio de Janeiro State. HRW found that, in most cases, the abusers were juvenile detention center guards who rarely were punished. No juvenile detention center guard in Rio de Janeiro State has ever faced criminal charges for abusive conduct. After Socio-Educational Action (DEGASE) Director for Rio de Janeiro State Sergio Novo disputed the report's findings, HRW returned to Rio de Janeiro's juvenile detention centers and released an additional report in June. While some facilities had been repaired, HRW found that physical and mental abuse continued and that living conditions in some of the centers had worsened. The DEGASE system held 2,300 adolescents and youth in 30 different centers.

The Center for Specialized Treatment of Juveniles (CAJE) in Brasilia, Federal District, from 390,180 held 294 youths in a facility designed to hold 196 and employed 17 guards. The staff included two doctors, a nurse, a psychiatrist, 13 psychologists, 46 social assistants, and some teachers. Of the total number of detainees, 11 were females held in separate living quarters. Local critics reported understaffing, violence, and unsatisfactory treatment of inmates with mental disabilities at CAJE.

During the first 6 months of the year, more than 1,000 detainees escaped from various FEBEM units. On March 10, 307 inmates escaped from the Tatuape unit in Sao Paulo City. On May 10, FEBEM fired 11 of the 15 Tatuape directors. The former state secretary for justice and FEBEM President Alexandre de Moraes reportedly stated that directors were not capable of maintaining order. Currently 1,139 FEBEM employees are undergoing administrative review under suspicion of mal-treatment and aggression against inmates. Since 2003, 154 employees have been dismissed for these reasons.

By November FEBEM had recorded 34 prisoner rebellions for the year, compared with 28 for all of 2004. Two correction officers were taken hostage during a riot at the Tatuape detention center, the 16th rebellion to occur at Tatuape during the year. On March 10, 307 inmates escaped from the center. On May 4, 40 employees and 10 inmates were injured in a rebellion. On June 16, 11 inmates violently attacked a fellow inmate. Other units in the FEBEM system also recorded episodes of violence and disorder throughout the year. On March 11, a female employee was raped and another was sexually assaulted at the Franco da Rocha center. On May 30, 15 inmates escaped from the Vila Maria center. On November 22, a violent rebellion at FEBEM's Tatuape unit injured 31 employees and 23 inmates and killed 1 inmate.

Sao Paulo Governor Geraldo Alckmin replaced FEBEM presidents after rebellions, riots, escapes, torture accusations, and mistreatment occurred in the FEBEM system. During the first nine months of the year, court orders and administrative decisions resulted in the dismissal of a number of prison directors and managers. In September the director of FEBEM's Vila Maria complex was dismissed. The Raposo Tavares FEBEM unit director was dismissed in November after an investigation into events that occurred in July. In December the Inter-American Court of Human Rights ordered the adoption of eight protective emergency measures for inmates in Sao Paulo State FEBEM unit. Ordered measures included reducing overcrowding and punishing employees responsible for torture.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Numerous prison riots and rebellions occurred during the year, many of which left inmates injured or dead. The Sao Paulo State secretary for prison administration reported 40 criminal deaths in the state penitentiary system from January to September, compared with 29 for all of 2004.

On July 6, a 16-year-old boy was stabbed to death by three cell mates at CAJE, which a CAJE spokesman described as a "settling of accounts" following a disagreement among detainees; the victim had received repeated death threats and was transferred to a new cell the day before he was killed.

In April FEBEM intern Cleber Nogueira da Silva died after being transferred to the Tupi Paulista prison in Sao Paulo State. NGOs stated that Nogueira da Silva, who tested positive for AIDS, had not received medical care.

In January 2004, 21-year-old student Romulo Batista de Mello died after a beating while in police custody in Rio de Janeiro State. The state prosecutor's case of torture against three police officers and a case of negligence against a doctor remained under investigation at year's end.

In response to an April 2004 Inter-American Court of Human Rights order that it bring conditions at the Urso Branco prison in Rondonia State to international standards, the government submitted 11 reports to the court, which the court deemed insufficient. (The court's order followed an April 2004 riot in which 14 inmates died; Urso Branco, with a capacity of 350 prisoners, held approximately 1,300 prisoners at the time of the riot.) The court deemed the implemented measures insufficient, and the case remained under consideration.

On June 12, Celso da Silva Alves was found beaten and hanged in a cell at the POLINTER prison facility in Rio de Janeiro City. On May 21 and May 23, at the same prison, fellow inmates killed Rauvinio Alves de Oliveira and Ramiro Rodrigues Garcia Filho. Alves was held with 81 other prisoners in a cell designed for 30. Harsh conditions in POLINTER, such as severe overcrowding, contributed to the rising trend of violence.

On June 14, prisoners revolted at the Zwinglo Ferreira Maximum Security Prison in Sao Paulo State. Members of the First Command of the Capital gang overpowered guards and took 14 of them hostage, invaded protected cells, and executed 5 members of other gangs. Officials negotiated an end to the conflict the following day. There were large-scale prisoner transfers after the riot.

Investigations into the January 2004 killing of two inmates of FEBEM's Vila Maria unit who were shot and killed while trying to escape were closed due to conflicting testimony. Civil proceedings against the state by the victims' families continued at year's end.

Rio de Janeiro and Sao Paulo states provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors occurred. The administrative director for the secretary of prison administration for Sao Paulo City reported that approximately five percent of prison guards in women's prisons were men. In only two Rio de Janeiro State police districts were women held in gender-segregated, short-term jail facilities.

In March 2004 the Association of Judges for Democracy reported that in Sao Paulo State prisons, incarcerated women had fewer rights than men. Women's institutions tended to be more overcrowded than men's and received less attention from prison administrators. Approximately 65 percent of female prisoners were held in severely overcrowded conditions and did not have jobs, education, and health care as required by law. On September 7, inmates at the women's prison facility in Butana, Sao Paulo State, staged a 2-day revolt, which included hostage taking. The inmates complained of humiliating personal searches during a facility-wide inspection that preceded the rebellion. As a result, authorities removed the facility's security director.

Juveniles sometimes were held together with younger adults (ages 18 to 21). In March 400 FEBEM detainees were transferred to the adult prison facility at Tupi

Paulista in Sao Paulo State; by year's end, the detainees had returned to FEBEM-run facilities.

While authorities attempted to hold pretrial detainees separately from convicted prisoners, overcrowding often required holding convicted criminals in pretrial detention facilities.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Ministry of Justice officials offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities. Global Justice reported that the level of access to prison facilities varied from state to state. In Sao Paulo and Rio de Janeiro states, Global Justice found it difficult to gain access. Sao Paulo State also employed committees of community leaders to monitor prison conditions. The Catholic Church's ministry for the incarcerated in Sao Paulo reported occasional difficulties in entering prisons. Sao Paulo State, like Parana and Rio Grande do Sul states, also had a prison ombudsman program. According to a former state ombudsman, the prison system was understaffed, and the investigators of complaints were often the accused perpetrators.

The government generally granted various organizations and advocacy groups unrestricted access to FEBEM facilities, although the NGO Association of Mothers and Friends of at-Risk Children and Youth (AMAR) reported difficulties gaining immediate access to facilities. For instance, on September 16, FEBEM prevented an AMAR visit to verify allegations of prisoner abuse on the grounds that Sao Paulo State internal investigations and Legal Medical Institute staff were doing so.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, police continued at times to arrest and detain persons arbitrarily. The law limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority.

*Role of the Police and Security Apparatus.*—The federal police force, operating under Ministry of Justice oversight, is small, primarily investigative, and plays a minor role in routine law enforcement. Most police forces fall under the control of the states, where they are divided into two distinct units: the civil police are plainclothes officers with an investigative role, while the military police are the uniformed officers charged with maintaining order. The January 2004 report of the UN special rapporteur on summary executions found that, although each state police force was monitored by its own internal affairs division, the units—subordinated to the chain of command and bound by ties of esprit de corps—often delayed applying administrative sanctions. This situation undermined efforts to address police abuses and contributed to a climate of impunity. Although the individual state governments control their respective military police forces, the constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system (see section 1.e.).

On July 22, authorities arrested 7 military policemen for sexually corrupting a 16-year-old girl at the Vila das Mercês Military Base in Sao Paulo City and placed them under administrative arrest. The victim's 17-year-old cousin stated that she received death threats after giving testimony at the internal affairs unit of the Military Police.

The Rio de Janeiro State secretary for public security's "Operation Knife in the Flesh" aimed at investigating and arresting policemen involved in illegal activities was carried out with the military and civil police. Under the operation, the state arrested 551 police officers and discharged 103 between February and August. The federal police have conducted similar operations that resulted in the arrest of policemen, judges and other authorities involved with some kind of illegal activities.

*Arrest and Detention.*—With the exception of arrests of suspects caught in the act, arrests must be made with a warrant. The use of force during an arrest is prohibited unless the suspect attempts to escape or resists arrest. Suspects must be advised of their rights at the time of the arrest or before being taken into custody for interrogation.

Although warrants generally were based on sufficient evidence and issued by a judge, the NGOs National Movement for Human Rights and Global Justice reported that, at times, warrants were issued arbitrarily, depending on the judge and the region of the country. Global Justice also reported that, in Rio de Janeiro and Sao Paulo states, public and NGOs pressures caused many judges to stop issuing "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.



The authorities generally respected the constitutional right to a prompt judicial determination of the legality of detention. Detainees generally were informed promptly of the charges against them. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge could extend this period. There were cases when detainees—typically poor and uneducated—were held longer than the provisional period. In August, Enilson Pereira Soares was detained six days without being informed of the charge after being caught shoplifting in the Federal District. Pereira's public defender never appeared.

In criminal cases defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period could be extended. In practice the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants facing charges on all but the most serious crimes had the right to a bail hearing.

In general prison authorities allowed detainees prompt access to a lawyer, and if indigent, to one provided by the state. Detainees were also allowed prompt access to family members.

Human rights observers stated that civil and uniformed police regularly detained persons illegally to extort money or favors. Between January and June, the Sao Paulo State ombudsman's office, received 23 complaints of extortion, typically by civil police.

There were no reports of political detainees.

In March Marcos da Silva was awarded approximately \$870 thousand (2 million reais) for having been confined 13 years in a Pernambuco State prison without having committed a crime. Da Silva was mistakenly arrested twice. In 1976 he was wrongly accused and convicted of homicide. After serving six years in prison, da Silva was exonerated and released after the actual killer was identified. In 1985 police arrested da Silva for violating parole; he then spent another 13 years in prison, without a trial, until a new prison director found out there were no real charges against him. During that time, he lost his sight due to an anti-riot bomb released by the police.

The Ministry of Justice reported that nationwide 106,798 of the 342,388 detainees in prisons and jails awaited sentencing during the year. An additional 57,588 were detained in jails. The law provides for a maximum number of days for pretrial detention, but the period was usually extended because of individual circumstances. In Pernambuco State, 9,124 of 13,651 detainees awaited sentencing.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and political and economic influences, particularly at the state level, a situation that occasioned vigilante action (see section 1.a.). A number of senior judges remained under investigation nationwide on a variety of charges.

Although the law requires that trials be held within a set period of time from the date of the crime, the nationwide backlog in state and federal cases frequently led courts to dismiss old cases unheard. This practice reportedly encouraged corrupt judges to delay certain cases so that they eventually could be dismissed, although there were no reports of this during the year.

The judicial system ranges from courts of first instance and appeals to the Federal Supreme Court. States organize their own judicial systems within the federal system and must adhere to the basic principles of the constitution. There are specialized courts for police, military, labor, election, juvenile, and family matters.

*Trial Procedures.*—After an arrest, the chief judicial officer reviews the case, determines whether it should proceed, and, if so, assigns it to a state prosecutor who decides whether to issue an indictment.

The right to a fair public trial as provided by law generally was respected in practice, although in some regions—particularly in rural areas—the judiciary was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill land activists or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay (see section 1.a.).

The law recognizes the competence of a jury to hear cases involving capital crimes. Judges try those accused of lesser crimes.

While the law provides for the right to counsel, the Ministry of Justice estimated that 85 percent of prisoners could not afford an attorney. In such cases the court had to provide a public defender or private attorney at public expense. In his February report, UN Special Rapporteur on the Independence of Judges and Lawyers Leandro Despouy stated that, "notwithstanding the enormous amount of work" per-

formed by the federal and state public defenders, they were “unable to meet all needs.” Three states, including Sao Paulo State, do not have an office of public defender; they employ private attorneys who do not have the same guarantees of autonomy and independence as the public defenders.

Defendants have the right to confront and question witnesses. Defendants enjoy a presumption of innocence. Defendants have the right to appeal to state superior courts and to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the Federal Superior Justice Court. At the appellate level, a large case backlog hindered the courts’ ability to ensure fair and expeditious trials. Any defendant sentenced to 20 or more years in prison has the right to an automatic retrial.

UN Special Rapporteur Despouy cited a judges’ association study that found public perceptions of the judiciary as “a mysterious black box impenetrable for the ordinary person”; delays in the system of justice and difficulties for the poor or marginalized in gaining access to the justice system caused this perception.

There continued to be numerous credible reports of state police officials’ involvement in intimidation and killing of witnesses involved in testifying against police officials (see section 1.a.).

The NGO National Movement for Human Rights noted in 2004 that courts convicted a much higher percentage of Afro-Brazilian than white defendants (see section 5).

The law mandates that special police courts exercise jurisdiction over state uniformed (military) police except those charged with “willful crimes against life,” primarily homicide. In all but the most egregious cases, police tribunals decided whether or not the killing was willful. As a result the civilian courts received very few case referrals involving police killings. The special police courts are separate from the courts-martial of the armed forces, except for the final appeals court. There were few convictions in these courts. Police were reluctant to investigate fellow officers. UN Special Rapporteur Despouy noted that “familiarity and esprit de corps may lead to impunity.”

Police officers accused of crimes less serious than willful murder are prosecuted in special military tribunals. Civilian courts have jurisdiction over police murder, but the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations (see section 1.e.). The police themselves were often responsible for investigating charges of torture carried out by fellow police officers. The problem remained most pervasive at the state level. Long delays in the special military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (see section 1.e.).

*Political Prisoners.*—There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, but there were reports that the police conducted searches without a warrant. NGOS and human rights groups, such as AI, reported frequent incidents of violent police invasions in *favelas* and poor neighborhoods. During these operations the police stopped and questioned persons and searched cars, residences, and business establishments without a warrant. Victims reported searches without warrants and abusive and violent searches of women. Wiretaps authorized by judicial authority were permitted. The inviolability of private correspondence generally was respected.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice and did not restrict academic freedom.

Privately owned newspapers, magazines, and a growing number of online electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting. Privately owned newspapers practiced isolated cases of censorship, often in areas with influential vested reasons and usually for political reasons.

Criminal and other elements, such as political party activists, subjected journalists to violence, sometimes specifically because of their professional activities. According to the NGO Journalists Without Borders, one local journalist was killed during the year. On July 1, investigative journalist Jose Cândido Amorim Pinto was ambushed and shot about 20 times in Carpina, Pernambuco state. For the past 19 years, Amorim had produced and presented an investigative program in which he

reported on local corruption cases. On June 21, Unified Workers' Socialist Party members attacked and injured a Globo network television crew during a report in front of local political party's headquarters Sao Paulo. The assailants were fired the next day.

The police investigation of the July 2004 killing of radio owner and host Jorge Lourenco in Ipanema, Alagoas State, remained pending at year's end.

Ten persons, including ex-mayor Eurico Mariano, were accused of killing radio host Samuel Roman outside his home in Coronel Sapucaia, Mato Grosso do State in 2004; Mariano was later arrested in Paraguay, while the other nine suspects evaded arrest or were killed.

In October courts convicted seven persons of the torture and killing of prominent Rio de Janeiro television journalist Tim Lopes in 2002. Six defendants were sentenced to prison terms ranging from 23 to 28 years, and one was sentenced to 9 years' imprisonment.

On June 30, Genivaldo Ferreira Nogueira, an ex-councilman of Mage, in the Baixada Fluminense region of Rio de Janeiro, was absolved of the accusation of ordering the 2001 killing of newspaper reporter Mario Coelho de Almeida Filho.

There were generally no government restrictions on the Internet. On July 4, however, the Repression and Analysis of Intolerance Crime Group, a special police force, arrested Reginaldo de Lima of Sao Paulo City, who operated a Web site devoted to Nazism, on charges of being sympathetic to Nazism. Lima, who maintained that he was a historical collector and that his website was geared towards academic research, was charged with radical prejudice, charges that carry a penalty of two to five years' imprisonment. A trial was pending at year's end.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The government required missionary groups to seek permission from the National Indian Foundation (FUNAI) for entry into indigenous lands.

*Societal Abuses and Discrimination.*—There were approximately 101 thousand members of the Jewish community of whom an estimated 45 thousand lived in Rio de Janeiro City, 29 thousand in Sao Paulo City; there were smaller communities in Porto Alegre, Bahia, Belem, and Manaus.

There were reports of anti-Semitic incidents during the year. In October the University of Berlin's Anti-Semitism Research Center reported that there were anti-Semitic groups in Sao Paulo and Porto Alegre. The center added that, as of October, 25 people had been denounced for some kind of anti-Semitic activity, most of them university students arrested for verbal and physical aggression against Jews. In October authorities in Curitiba, Parana State, arrested 13 members of a neo-Nazi group on charges of attempted murder. At year's end the members of the group were under preventive detention in Curitiba.

On May 8, three Jewish students were attacked in Porto Alegre, Rio Grande do Sul State; 14 persons were charged with assault or failure to prevent the attack. The case was pending at year's end.

The investigation in the October 2004 defacing of the Congregation Beth Jacob synagogue in Campinas, Sao Paulo State, was closed during the year due to a lack of evidence.

There was no further information regarding six law students at Rio de Janeiro Catholic University who were under local, state, and federal investigation for spraying anti-Semitic graffiti in a university bathroom in February 2004.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice, although there were restrictions on entry into protected indigenous areas.

The law prohibits forced exile as punishment, and it was not practiced.

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and resettled 66 refugees during the year; refugee status was granted to approximately 35 percent of those who applied.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

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

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Military conscripts may not vote.

*Elections and Political Participation.*—In the 2002 national elections, PT candidate Luiz Inacio Lula da Silva won election to a 4-year-term with more than 61 percent of the vote in the second-round runoff.

Women enjoyed full political rights. There were 10 women in the 81-member Senate and 45 women in the 513-seat Chamber of Deputies. There were four women in the cabinet and one on the Supreme Court.

There were 25 Afro-Brazilians among the 594 members of Congress. There were three members of minorities in the cabinet and one on the Federal Supreme Court.

*Government Corruption and Transparency.*—Ethics and ethical behavior among public figures became a major issue during the year. The NGO Transparency International's index indicated a serious level of perceived corruption.

Corruption scandals involving alleged kickbacks and abuse of power at the Postal Service and the Brazilian Reinsurance Institute affected the government during the year. Dozens of government officials, including several key cabinet members, resigned or were removed; three congressional inquiry committees opened investigations; and 12 federal deputies awaited trial by the Chamber of Deputies. President Lula spoke publicly against corruption in government.

The law provides for public access to unclassified government information upon application to the Commission for Public Ethics; however, the bureaucratic process often slowed release of such information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually were cooperative and responsive to their views. Although federal and state officials in many cases sought the aid and cooperation of NGOs in addressing human rights problems, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, particularly members of the state police forces. On September 21, AI reported death threats against Antonio Fernandez Saenz, a lawyer who provided legal assistance to socially deprived inhabitants of Sao Bernardo do Campo, Sao Paulo State. According to AI, military police threatened Saenz and his family and also broke into his office and stole documents which allegedly incriminated civil and military police in human rights violations.

While eight states had police ombudsmen (see section 1.c.), some NGOs and human rights observers questioned their independence and effectiveness. The ombudsmen's accomplishments varied dramatically, depending on such factors as funding and outside political pressure.

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

Although the law prohibits and penalizes discrimination on the basis of race, gender, disability, or social status, discrimination against women, Afro-Brazilians, homosexuals, and indigenous people continued.

*Women.*—Although the law prohibits domestic violence, no provision specifically addresses violence against women and spousal abuse. During the year, the Senate approved legislation to address all forms of violence against women and to define penalties for the offense. Domestic violence remained both widespread and underreported; UN Special Rapporteur Despouy noted a tendency to blame the victims of these offenses. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended inconclusively. According to a survey conducted by the World Society for Victims and used by the Senate in its 2004 Report on the Condition of Women, 23 percent of women were subjected to domestic violence; in approximately 70 percent of the cases, the aggressor was the victim's husband or companion; 40 percent of the cases resulted in serious injuries, but only 2 percent of the complaints resulted in punishment of the aggressor.

The government acted to combat violence against women. Each state secretariat for public security operated women's stations (*delegacias da mulher*) to address crimes against women, but the quality of services provided varied widely, and availability was particularly limited in isolated areas. The stations provided the following services to domestic violence victims: psychological counseling, temporary shelter, hospital treatment for rape victims (including treatment for HIV and other sexually transmitted diseases), and assistance in initiating criminal cases by investigating and forwarding evidence to the courts. According to the Ministry of Justice, many of the women's stations fell far short of standards. The NGO Global Justice commented that the women's station program promoted public awareness of crimes against women but lacked strategies to protect victims after reports were filed.

The city of Rio de Janeiro, through its Favela-Bairro (Slum-Neighborhood) program, offered temporary housing to women and children who were victims of sex-related crimes.

The government continued to operate a toll-free hot line to address complaints of violence against women. The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically. On November 25, the Secretariat for Women's Affairs established a nationwide hot line to assist female victims of violence. The Institute Patricia Galvao launched the "where violence exists, everyone loses" campaign which focused on men and aimed to prevent violence against women. In addition the Secretariat for Women's Affairs launched the "Your life begins when violence ends" campaign to encourage women to report violence, denounce their aggressors, and prevent future violence. Both campaigns were broadcast on television and radio, and published in newspapers and magazines.

Rape, including spousal rape, is a crime punishable by 8 to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial. The law allows a convicted rapist to escape punishment if he marries his victim or if the victim marries a third person and does not request or require an investigation or criminal proceedings.

While adult prostitution is legal, various associated activities, such as operating a brothel, are illegal. There are no specific laws addressing sex tourism, but the crime is punishable under other criminal types, such as pedophilia and corruption of minors. Also, the government released a "code of conduct to combat sex tourism and sexual exploitation" and conducted campaigns in the most affected areas. Authorities in the city of Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in promoting prostitution during the year. Rio de Janeiro State passed a law requiring certain businesses to display signs listing the penalties for having intercourse with a minor. Women's groups reported that prostitutes encountered discrimination when seeking free medical care. Trafficking of women for the purpose of prostitution was a serious problem (see section 5, Trafficking).

Sexual harassment is a criminal offense, punishable by up to two years in jail. The law encompasses sexual advances in the workplace or in educational institutions and between service providers or clients. In the workplace it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim. Although the legislation exists and was enforced, accusations of remained rare, and the extent of the problem was not documented.

Women enjoy the same legal rights as men. A cabinet-level office, the Secretariat for Women's Affairs, oversees a special secretariat that has responsibility to ensure the legal rights of women. Although the law prohibits discrimination based on gender in employment and wages, there were significant wage disparities between men and women. Surveys during the year indicated that women on average earned between 30 to 40 percent less than men. While a federal government quota system requires that at least 20 percent of new federal government hires be women, UN Special Rapporteur Despouy noted a strikingly low level of women's representation in the judicial system, where women occupied "only five percent of the top posts in the judiciary and the Public Prosecutor's Office."

The law provides 120 days of paid maternity leave to women and 7 days to men. The law also prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates, but some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Violations of the law are punishable by jail terms for employers of up to 2 years, while the company may be fined 10 times the salary of its highest-paid employee.

NGOs active in combating economic discrimination included: the Feminist Center for Studies and Assistance (which focused on combating gender and racial discrimination by conducting studies and promoting advocacy activities to influence public

policy affecting women) and the Institute Patricia Galvao (which informed the public about women's rights and violence against women).

*Children.*—The government continued its commitment to children's rights and welfare, but millions of children suffered from the poverty afflicting their families, worked to survive, and failed to get an education.

The law provides that children age 6 and under receive free day-care and pre-school. Schooling was free and compulsory between the ages of 7 and 14 and free, but not compulsory, for adolescents between the ages of 15 and 17 who did not attend primary school. Schooling was available in all parts of the country, although not every school had space for every child who wanted to attend. In 2002 the government's statistics agency (IBGE) reported a 97 percent school enrollment rate for children ages 7 to 14, although only 11 percent of children were completing 8 years of primary school by age 15. Girls and boys attended school in comparable numbers, although a UN Children's Fund (UNICEF) report indicated that a higher percentage of boys than of girls were not in school.

While it recorded generally high vaccination and immunization rates for 1-year-olds, UNICEF noted that the child mortality rate (at 29 per 1,000 live births) remained "disproportional to national production capacity and available technology." According to HRW, girls often lacked basic medical care and had fewer opportunities than boys to receive exercise, recreation, and participate in other activities.

While the law prohibits subjecting any child or adolescent to any form of negligence or abuse, such abuse was a major problem. According to the Special Secretariat for Human Rights' Infancy and Adolescence Information System (SIPIA) report noted that over the 6-year period ending in April, most of the 361 thousand abuse complaints in 12 states were filed against parents. SIPIA reported that physical and psychological aggression was also a major problem with more than 29 thousand complaints recorded in this category. Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively. In February UN Special Rapporteur Despouy reported "a strong sense of impunity for crimes against children and young persons," mainly in the areas of death squad killings and sexual exploitation and abuse.

Between January and May, there were 258 cases of sexual abuse cases involving minors in Pernambuco State. According to the National Secretariat for Human Rights, other states recorded the following number of reports of sexual abuse during the year: Sao Paulo 1,648; Rio de Janeiro 1,497; Rio Grande do Sul 1,362; Minas Gerais 1,147.

On July 7, the Federal Police "Guardian Angel" division arrested Anderson Luis Juliano Borges Costa in Volta Redonda, Rio de Janeiro State, for pedophilia and child pornography. Costa was accused of sexually abusing more than 20 children and awaited trial at year's end.

No additional information was available regarding the Rio Grande do Sul case against 14 military policemen charged with sexually abusing minors in 2001 and 2003. The NGO National Movement for Justice and Human Rights reported that the accused policemen remained on the police force.

The legal minimum age for marriage of men and women is 18; those under the age of 16 can marry with parental consent. Underage marriage was not a significant problem.

Trafficking in children for the purpose of prostitution was a serious problem (see section 5, Trafficking).

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

A July study by the Institute of Applied Economic Policy (IPEA) reported that more than 100 thousand children and adolescents were living in public shelters. The leading causes for displaced children were: poverty (24 percent), abandonment (19 percent), domestic violence (12 percent), and drug abuse by parents or guardians (11 percent). The IPEA report also revealed that in more than half of the cases, children were living in shelters due to the parent's belief that the child would receive better care there than at home.

In September the NGO Travessia reported that approximately 350 children lived on Sao Paulo City streets, and an additional three to four thousand children worked as street vendors.

The city of Rio de Janeiro operated 38 shelters and group homes for street children. The Sao Paulo City government runs several programs for street children, including a number of shelters for minors and the Sentinel Program, which identifies at-risk youth and provides social services, counseling, and shelter.

*Trafficking in Persons.*—Although the law criminalizes all forms of trafficking, persons were trafficked from, within, and, to a lesser extent, to the country.

The law establishes a penalty of up to 8 years' imprisonment for transporting persons in or out of the country for the purposes of prostitution; sentences may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group. The law requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless the authorities grant prior approval. Laws on trafficking for sexual exploitation were difficult to enforce, particularly in relation to domestic trafficking. The law does not specifically prohibit trafficking of men or the internal trafficking of women, although legislation was pending to criminalize all forms of trafficking.

Violators of antitrafficking laws rarely received criminal penalties because of the limitations of the statutes. Although complete data was not available, officials estimated that 50 to 100 labor trafficking defendants were prosecuted in 2003, however, many of those proceedings had not reached conclusion by year's end. According to the International Labor Organization (ILO), only 68 cases of trafficking of women for prostitution have been brought to the attention of federal authorities over the past 3 years. During the last quarter of the year, however, the country had its first three convictions that included prison sentences for persons trafficking women abroad, one in Goiania and two in Fortaleza. Prison sentences ranged from 8 to 30 years. These cases received widespread media attention.

The Federal Police in Goiania conducted numerous operations to break trafficking groups, such as the August "Operation Babylon," which resulted in the arrest of six people. On November 23, the Federal Police intercepted two trafficking victims at the international airport of Belo Horizonte, Minas Gerais, on their way to Spain. After talking to the victims, the police arrested Andrea Lucia Godoy Rosa, accused of being the head of the trafficking scheme in Belo Horizonte. In addition, on November 29, the Sao Paulo State civil police, together with the Federal Highway Police and the State Public Prosecutor's Office of Sao Paulo, launched "Operation America" to curb trafficking of workers to Mexico and the United States. The operation resulted in the arrest of 30 people involved in the scheme. None of the cases had been judged by year's end.

There was no new information regarding the case of 12 persons charged in October 2004 with participating in a sex trafficking ring in Fortaleza, Ceara State.

The Federal District court case against the former speaker of the Federal District's legislative chamber, Benicio Tavares, on charges of forced prostitution and sexual exploitation of minors remained pending at year's end.

Government authorities responsible for combating trafficking included various agencies of the Ministry of Justice (including the Federal Police), the Special Human Rights Secretariat, the Ministry of Labor and Employment, the Ministry of Tourism, and the Ministry of Social Assistance. The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads; occasionally they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers; antitrafficking offices in Sao Paulo, Rio de Janeiro, Ceara, and Goias states monitored domestic and international trafficking.

Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. According to police, some women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions.

The country assisted with investigations of trafficking in Spain, Portugal, Italy, Sweden, Mexico, and the United States.

Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. NGOs estimated that 75 thousand women and girls, many of them trafficked, were engaged in prostitution in neighboring South American countries, the United States, and Western Europe. Women were trafficked from all parts of the country. The government reported that trafficking routes existed in all states and the Federal District. Young women and girls were trafficked overseas for prostitution, while young men and boys were trafficked internally as slave laborers.

Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Union leaders claimed that nearly all persons working as forced laborers had been trafficked by labor recruiters (see section 6.c.). Labor inspectors found a small number of persons from other countries trafficked to work in urban sweatshops. Labor recruiters generally recruited laborers from small municipalities in the North and Northeast and transported the recruits long distances to ranches and plantations in

remote areas in the central part of the country. Most internally trafficked slave laborers originated from Maranhao and Piaui states, while Para and Matto Grosso states received the highest number of internally trafficked slave laborers.

According to the Reference Center on Children and Adolescents (CECRIA), patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the Amazon region, sexual exploitation of children took place in brothels that catered to mining settlements. In large urban centers, girls who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and trafficked them outside the country. The Ministry of Tourism found that 398 of the 1,514 tourist destinations frequented by citizens had an active sexual commercial market for children and adolescents.

Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. NGOs estimated that approximately 500 thousand children were involved in prostitution.

Officials were occasionally involved in trafficking. In July 2004 the Joint Parliamentary Investigation Commission (CPMI) denounced a number of mayors, vice-mayors, judges, city council members, and a governor who were involved in the sexual exploitation of minors and prostitution rings. A rape and pandering charge against former Goias mayor Boadyr Veloso was dismissed after he arranged the marriages of the seven girls he exploited. None of those cited in the CPMI report have been prosecuted; some cases remained under investigation and others were dismissed due to a lack of evidence.

In February Senator Joao Ribeiro was convicted and fined \$281 thousand (730 thousand reais) for forcing workers to work and live in slave-like conditions. His appeal remained pending at year's end.

CECRIA's 2003 report on trafficking in persons for commercial sexual exploitation, which drew on police, media, and other sources, identified 241 sex trafficking routes. Internationally, Spain was the destination of most identified routes (32), followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7). The study also named France, Switzerland, Germany, Argentina, Chile, Japan, Israel, and the United States as destinations for trafficking victims. The report identified the cities of Rio de Janeiro, Sao Paulo, Belem, Fortaleza, Salvador, and Recife as exit points for persons trafficked to Europe. Rio de Janeiro and Sao Paulo were exit points for the United States, while victims destined for Argentina, Chile, and Paraguay passed through the city of Foz do Iguacu.

Domestic routes included: from Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the North and Northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region, which itinerant workers often transited. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. Domestically, trafficked agricultural workers were most often used in isolated areas of the Amazon region in the northern part of the country; many of the most serious cases occurred in the State of Para. The report also called attention to sex trafficking in areas with major development projects.

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons who fell prey to trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies, or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

In January the Special Secretariat for Human Rights, in conjunction with the University of Brasilia and UNICEF, published the *Inter-sectoral Matrix to Combat Sexual Exploitation of Children and Adolescents*. The matrix found that approximately 930 of 5,563 municipalities had an active sexual exploitation market. The matrix also found that most commercial sexual exploitation took place in the Northeast and in Pernambuco State and that 66 cities were involved in prostitution, trafficking, pornography, and sexual tourism. Of the 930 municipalities with an active sexual exploitation market, the matrix found that 292 were located in the Northeast, 241 in the Southwest, 161 in the South, 127 in the Central-west, and 109 in the North.



Police officials believed that some women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or domestics. Upon arrival, the victims' passports often were confiscated, and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims.

Internal trafficking supplied forced labor primarily from urban to rural areas for agricultural work and for sex tourism. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts. Sex tourism existed throughout the country but was most apparent in coastal resort towns in the Northeast, South, and Southeast, and such major tourist destinations as Rio de Janeiro and Fortaleza, Ceara.

Trafficking in persons was linked to international networks of crime, including drugs and arms trafficking and money laundering.

There was no evidence of any institutional government complicity in the trafficking, nor was there any known evidence of individual state-level law enforcement officers engaging in, encouraging, or abetting trafficking. In July 2004 the Sexual Exploitation Parliamentary Inquiry Committee reported that police and other authorities facilitated, either actively or by omission, the trafficking of women and children near the Venezuela, Suriname, Bolivia, and the French Guyana borders.

Several government programs assisted victims of trafficking, although efforts often were inconsistent and under-funded. The Ministry of Social Assistance operated more than 400 centers to assist victims of sexual abuse and exploitation and domestic violence. NGOs provided victim assistance in job training, counseling, and other community reintegration assistance. The Office of the Comprehensive Program for the Prevention of and the Fight Against Trafficking in Persons operated seven centers to provide assistance to victims of both domestic and international trafficking. Locally based NGOs assisted trafficking victims with retraining and counseling activities.

While trafficking victims were not treated as criminals, access to support services was limited due to a lack of government support. No statistics were available concerning the number of victims in shelters. Police usually referred victims to centers for treatment and counseling.

The government maintained a witness protection program overseen by the Office of Legal Assistance for Grassroots Organizations, an NGO working in coordination with government authorities. Although the program operated in all states, lack of resources limited its effectiveness.

The National Human Rights Secretariat conducted antitrafficking information campaigns. The National Secretary for Justice continued to lead a government public awareness campaign to deter international traffickers and sensitize their potential victims to the dangers.

In February the Ministry of Tourism launched a three-phase anti-sex tourism campaign in the Northeast and Rio de Janeiro State during carnival season when sex tourism is common. During carnival, the ministry distributed pamphlets and other informational materials in coastal cities and also educated tourism industry employees, such as hotel and restaurant owners and taxi drivers, about the dangers of sex tourism. City authorities in Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in promoting prostitution during the carnival season.

Labor organizations and NGOs continued to conduct prevention campaigns. The CPT distributed pamphlets to rural workers in areas that historically served as targets for traffickers. The pamphlets warned rural workers about the methods of traffickers and offered practical advice to avoid this situation. A number of local unions instructed laborers to register with them and the police before leaving with a labor recruiter.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the federal government effectively enforced these provisions. However, state governments failed to meet legally mandated targets for educational opportunities and work placement. While the law has provisions to ensure access to buildings for persons with disabilities, states do not have programs to enforce these provisions effectively.

The National Council for the Rights of Handicapped Persons and the National Council for the Rights of the Elderly, both within the Special Secretariat for Human Rights, had primary responsibility for promoting the rights of persons with disabilities.

The Sao Paulo State labor code requires that meeting places for more than 100 persons or other facilities for 600 persons or more provide modified entrances, bathrooms, ramps, elevators, and signs for persons with disabilities. Nonetheless, persons with disabilities in Sao Paulo State had difficulty in securing necessary accommodations.

There were 237 psychiatric hospitals with more than 48 thousand patients in the country. A 2004 inspection by the Federal Council of Psychiatry and the Brazilian Bar Association of the country's psychiatric hospitals in 14 states and the Federal District concluded that psychiatric patients received inadequate medical care, which was exacerbated by the lack of inspection procedures. On July 4, police raided an unlicensed facility for mentally disabled persons in Sao Jose dos Campos, Sao Paulo State. The facility housed 40 persons, 20 of whom were present during the raid. Police found malnourished and sick victims with signs of physical abuse. Patients complained of poor treatment, including detention in small and unventilated rooms, little food, and inadequate medical attention. A female patient reported that she had been abused sexually by one of the owners, Roberto Augusto de Oliveira. Owner Sirlene Aparecida de Oliveira was indicted for mistreatment and was released pending trial. Robert Oliveira and his wife Margarida fled.

*National/Racial/Ethnic Minorities.*—Although the law prohibits racial discrimination, darker-skinned citizens, particularly Afro-Brazilians, frequently encountered discrimination.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets.

Afro-Brazilians were significantly and pervasively underrepresented in professional positions and in the middle and upper classes, experiencing a higher rate of unemployment and earning an average wage approximately half that of a white person. The UN special rapporteur on the judiciary noted that persons of African descent occupied less than 1 percent of the senior posts in the judiciary and the Public Prosecutor's Office.

There was also a sizeable racial education gap. According to the education ministry, Afro-Brazilians received an average of 5.3 years of schooling compared with 7.1 years for whites. Afro-Brazilians constituted 16 percent of the university population. Major public universities in the states of Sao Paulo, Rio de Janeiro, Parana, Mato Grosso, Bahia, and the Federal District of Brasilia maintained affirmative action programs; for instance, the University of Brasilia set aside 25 percent of its first-year vacancies for self-declared students of color.

On April 13, an Argentine soccer player was arrested for using racial slurs during a match in Sao Paulo; he was charged with qualified injury, aggravated by racism, and was detained two days and fined \$3 thousand (8,400 reais). It was the first time that authorities had invoked the law for conduct during a sporting event.

In June a student newspaper at the University of Sao Paulo published racially insensitive comments about Afro-Brazilians with references to slavery. Editors of the newspaper retracted the comments after students and school officials protested.

During the week of July 18, a court ruled in favor of an Afro-Brazilian man who claimed racial discrimination for his firing by the Copacabana Palace Hotel in Rio de Janeiro City in 2003. The court awarded \$65 thousand (150 thousand reais) in damages.

*Indigenous People.*—The law grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, in practice, the government did not secure these rights.

The country had an indigenous population of approximately 400 thousand persons belonging to 215 "nations." The government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts. The FUNAI reported that indigenous people faced many problems, including disease and poor health care, loss of native culture, and recurring incursions and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people had only limited participation in decisions taken by the government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders.

During the year Indigenous TV began nationwide broadcasts to disseminate information about indigenous life and culture. The station received support from the

Raoni Foundation, the NGO Planetary Union, the Ministry of Culture, and various international institutions.

AI published a report in March that criticized the government's lack of a clear indigenous policy and assessed living conditions among the indigenous population. AI found that indigenous people continued to be victims of attacks, killings and other forms of discrimination. The report noted that the government's failure to demarcate indigenous territories and the slow demarcation process contributed to violence, racial discrimination, and other human rights abuses. AI also reported that reservations and other indigenous communities were plagued with malnutrition, poor health care, violence, and suicide.

From January to mid-May, 21 indigenous children died of malnutrition and associated conditions in Mato Grosso do Sul State. FUNAI attributed the deaths to the indigenous people's poor access to land for growing crops and isolation from the outside economy. In response to the crisis, FUNASA accredited three nearby hospitals to treat indigenous patients, and the government provided additional funds to local hospitals serving the local indigenous population. On May 25, after an on-site investigation at the indigenous reserve of Dourados in the state of Mato Grosso do Sul, a government commission issued a report with 52 health-related recommendations to various government entities.

A FUNASA study released during the year reported that indigenous communities in Acre, Mato Grosso, and Para states had infant mortality indices of 115, 134, and 102 per thousand, respectively, compared with a national rate of approximately 33 per thousand. The study cited a lack of access to arable land and poor sanitation as the leading contributors to infant death.

The 1988 constitution charged the federal government with demarcating indigenous areas within 5 years. The complete process includes four phases: identification, declaration, approval, and registration. By year's end at least 326 of the 583 recognized indigenous areas had reached the final registration stage, 159 were in one of the four phases of the registration process, and 98 had yet to be processed. The demarcation of 11 indigenous lands in Mato Grosso do Sul State remained disputed at year's end. Identified indigenous territory constituted 12.5 percent of the national territory.

The law provides indigenous people with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands but only if the Congress approves each case. The government administered the lands but was obliged to consider the views of the affected communities regarding their development or use, and communities have the right to "participate" in the benefits gained from such use.

Nonindigenous people, who illegally exploited indigenous lands for mining, logging, and agriculture, often destroyed the environment and wildlife, spread disease, and provoked violent confrontations. FUNAI acknowledged a lack of resources to protect indigenous lands from encroachment, and it depended on the understaffed and poorly equipped Federal Police for law enforcement on indigenous lands.

Disputes between indigenous and nonindigenous people occasionally erupted into violence. Most conflicts concerned land ownership or resource exploitation rights in which some indigenous people resorted to forceful occupation, hostage taking, and killing.

Land invasions by indigenous groups continued and sometimes resulted in violence and killings. On July 26, Dorival Benites of the Guarani-Kaiowa tribe was killed during a conflict when he and 200 other tribe members entered the Sao Benedito farm near Sete Quedas in Mato Grosso do Sul State; 4 other tribe members were injured. The group claimed that the farm was on indigenous land. On July 1, Guarani-Kaiowa tribal members attempted to invade the Cristal farm near Dourados, Mato Grosso do Sul State, and briefly held two FUNAI mediators hostage.

On August 7, approximately 20 members of the Apiaca tribe in northern Mato Grosso State attacked a lodge and held 10 hostages. Indigenous people claimed that they gained the land through demarcation, while the title owner, who was injured in the attack, believed that he retained legal ownership.

On April 15, President Lula signed a decree to demarcate the Raposa Serra do Sol Indigenous Territory, a 4.2 million acre reservation in Roraima State that was home to approximately 16 thousand indigenous people from 164 different indigenous groups.

On July 20, Truka tribal leader Edilene Bacerra Pajeu presented a report to UN Special Rapporteur Philip Alston on the killings of 18 indigenous persons during the first 7 months of the year, including details regarding the deaths and imprisonment of Truka Indians in Pernambuco State. On July 27, the Federal Supreme Court president issued an injunction suspending the ratification process of the Nande Ru Marangatu indigenous reserve in Mato Grosso do Sul State, which was home to

1,115 Guarani-Kaiowa Indians. The decision was under appeal at year's end. Indigenous people from the reserve complained of constant threats from cattlemen. On December 15, Federal Police forcibly moved 400 members of the tribe to an area of the Nade Ru Marangatu reserve that was too small to accommodate the group. As a result, many built temporary shelters on the side of roadways.

On December 24, Dorvalino Rocha, a member of the Guarani-Kaiowa tribe, was shot to death on a ranch near Antonio Joao, Mato Grosso do Sul State. On December 27, private security guard Joao Carlos Gimenes was indicted for the crime, and the trial was pending at year's end.

On August 4, the long-delayed trial of military police officer Rossini Jose de Moura, charged with the 1996 killing of Shanenawa Indian Raimundo Silvino, resulted in an acquittal by the jury, which accepted Moura's claim of self defense. The NGO Indigenous Missionary Council reported that witnesses saw Moura's defense lawyers dining in public with the judge and a member of the jury after the trial.

In 2003 only 1,300 indigenous students of the approximately 400 thousand indigenous population attended college. Some universities, such as the University of Brasilia (UNB), maintained affirmative action programs for indigenous people; however, only 15 of UNB's 21,500 students were indigenous.

*Other Societal Abuses and Discrimination.*—There was a history of societal violence against homosexuals. State and federal laws prohibit discrimination based on sexual orientation, and the federal and state governments generally enforced these laws.

The Bahian Gay Group reported that 63 homosexuals were killed between January and July, compared with 158 for all of 2004.

The Secretariat of State Security in Rio de Janeiro State in partnership with NGOs, operated a hot line and offered professional counseling services to victims of antihomosexual crimes.

Pursuant to a July 27 federal court ruling, same-sex partners in a "stable union" are eligible to receive the same benefits as heterosexual couples.

On June 15, the Minas Gerais Court of Justice ruled in favor of a girl whose private school enrollment was revoked in 2003 based upon her mother's HIV status; the young girl was not HIV positive. The court awarded the mother and daughter \$1,500 (3,500 reais) in moral damages.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for union representation of all workers (except members of the military, the uniformed police, and firefighters) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration unless objections are filed by other unions. Unions that represent workers in the same geographical area and professional category may contest registration, in which case the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union. Union organizers may challenge this decision in the labor courts.

The law stipulates certain restrictions, such as *unicidade* (one-per-city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement and the International Confederation of Free Trade Unions criticized *unicidade*. While a number of competing unions existed, the MLE and the courts enforced *unicidade* in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized. Most informal sector workers, including self-employed workers and those not formally registered with the MLE, fell outside the official union structure; they therefore did not enjoy union representation and usually were unable to exercise fully their labor rights. The informal sector accounted for approximately one-half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The CPT reported that violence in rural areas victimized labor leaders, with the perpetrators enjoying relative impunity (see section 1.a.). The CPT reported that 10 rural labor leaders were killed during the year and 84 received death threats.

Although the law prohibits the dismissal of employees who are candidates for or holders of union leadership positions and requires employers to reinstate workers fired for union activity, authorities at times did not effectively enforce laws protecting union members from discrimination. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome. There were approximately

1.4 million complaints registered in labor courts during the year. Parties generally agreed that, when ultimately resolved, cases were decided fairly and on their merits. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years. Unlike the preceding year, the trial backlog rose during the year.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining was widespread in the formal sector. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union.

The law provides workers (except for the military, military police, and firefighters) with the right to strike, and workers exercised this right in practice. While the civil police were allowed to form unions and conduct strikes, the military police were prohibited from organizing.

The law stipulates that a strike may be ruled “abusive” by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike, notifying employers at least 48 hours before the beginning of a walkout, and ending a strike after a labor court decision. Employers may not hire substitute workers during a legal strike or fire workers for strike-related activity provided that the strike is not ruled abusive. In practice employers did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process (see section 6.a.).

There are no special laws or exemptions from regular labor laws in the country’s four free trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, forced labor and trafficking of workers occurred in many states (see section 5), most commonly in activities such as: forest clearing, logging, charcoal production, raising livestock, and agriculture, particularly harvesting sugarcane, coffee, and cotton. Forced labor typically involved young men drawn from the impoverished northeast to work in the north and central west of the country, but women and children, typically working with their parents, also were engaged in activities such as charcoal production.

Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo State. In April Sao Paulo City launched an investigation of the labor conditions of the estimated 60 thousand illegal Bolivian immigrants working in the city. According to the Catholic-based NGO Migrant Pastoral Catholic, many of these workers were compelled to work approximately six months to pay “coyote” smuggling fees. There was no additional information pertaining to the investigation’s results at year’s end. Government officials indicated that Korean and Chinese laborers also were exploited in urban sweatshops under conditions that possibly involved fraud or coercion.

On September 2, authorities arrested 3 truck drivers near Londrina, Parana State, for trafficking 44 Bolivians into the country. On September 6, authorities arrested a Korean businessman in the city of Sao Paulo for forcing 12 Bolivians to work in a sweatshop. The Bolivians worked from 7 a.m. to 10 p.m. and lived, slept, and worked in the same room. The workers rented the machines they used and received approximately 40 cents for each garment they produced.

The ILO’s annual report on forced labor estimated that there were 25 thousand slave laborers in the country, concentrated mainly in the states of Para and Mato Grosso. Although forced labor continued to be a serious problem, the ILO commended the government for a number of measures it took to eliminate it.

Labor intermediaries (*gatos*) trafficked most forced laborers to the remote estates where they worked. At the worksite, laborers were forced to work in harsh conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing.

The CPT reported that fleeing workers were killed or beaten to intimidate others at the worksite. On May 8, Rio Grande do Sul State police arrested Reginaldo Batista, who worked as a foreman in a farm owned by businessman Luiz Carlos Berti, in the municipality of Sao Francisco de Paula, where 34 rural workers, including 4 minors, were kept in conditions similar to slavery. According to the local police chief, the foreman used a rifle to threaten the workers. Dire poverty, low levels of education, and a lack of awareness about their rights contributed to workers’ vulnerability to forced labor schemes.

The law provides that violators of forced or compulsory labor laws may be sentenced up to eight years in prison. The law also provides penalties for various

crimes related to forced labor, such as recruiting or transporting workers or obliging them to incur debt as part of a forced labor scheme. The abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies.

The law also allows the government, after compensating the landowner, to seize lands on which forced labor has been found and to distribute the property in the government's land reform program.

There were few criminal prosecutions relating to forced labor because of the lack of a clear legal definition; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses' fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids. Since violators of forced labor laws enjoyed virtual impunity from criminal prosecution, the government used fines and other disincentives to penalize violators. The government withholds credit to farms using forced labor. In January the labor ministry identified 65 additional employers who subjected workers to slave labor conditions, bringing to 166 the number of employers so sanctioned since the 2003 inception of the "black-list."

The Executive Group to Combat Forced Labor coordinated the government's efforts to eliminate forced labor. The group's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who sometimes accompanied labor inspectors on raids to provide protection. Mobile teams levied fines on estate owners using forced labor and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

In February the attorney general's labor office uncovered slave labor conditions in the construction of the Forum of Cabo Frio, a building that is part of the judicial system in a town north of Rio de Janeiro City. Seventy workers reportedly were brought from Bahia and Sao Paulo states to labor 15 hours a day, 7 days a week. The workers' housing lacked ventilation and potable water and had only one bathroom. The construction company held the laborers' work permits to prevent them from fleeing. Judicial proceedings against the two construction companies were pending at year's end.

According to the Ministry of Labor's Mobile Inspection Group, the government released 1,547 slave laborers during the year. On June 3, labor inspectors released 34 forced workers on a farm near Salvador, Bahia State. On June 14, labor inspectors released approximately 1,200 forced laborers at the Gameleira Distillery in Mato Grosso State. The distillery's owner, Eduardo Queiroz Monteiro, was fined \$630 thousand (1.45 million reais) in back-pay and was ordered to arrange relocations for the slave laborers.

On May 19, 75 companies, 11 labor federations, and 13 civil society organizations signed an agreement with the labor ministry committing to ensure that their suppliers were not involved in slave labor. There were no reports on compliance. From January to November, the task force liberated 3,524 forced laborers in 163 different locations compared with 2,887 in all of 2004.

The 2004 case against Senator Joao Ribeiro in Para State for having 38 forced laborers on his farm remained pending at year's end.

Although mobile units enjoyed some success in freeing those working in slave-like conditions, inspectors sometimes faced resistance (see section 1.a.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law restricts work that may be performed by children, child labor continued to be a widespread problem.

The minimum working age is 16 years, and apprenticeships may begin at age 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18. The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades. Nonetheless, in 2004 the IBGE estimated that there were 5.1 million child laborers between the ages of 5 and 17. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

A report of the Institute for Work and Society Studies identified 69 main rural and urban activities in which children worked. Common rural activities included: harvesting corn, manioc, and other crops; fishing; mining; raising livestock; and pro-

ducing charcoal. In urban areas children worked in shoe shining, domestic services, transportation, construction, restaurants, street peddling, begging, drug trafficking, and prostitution (see section 5). The ILO estimated that approximately 20 percent of 10- to 14-year-old girls worked as household domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The MLE was responsible for inspecting worksites to enforce child labor laws; its regional offices had special groups to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Nonetheless, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. Labor inspectors continued to prioritize inspections in the informal sector, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$143 (400 reais) per violation. As a result, few employers were fined for employing children.

MLE inspectors often worked closely with labor prosecutors from the Public Ministry of Labor (MPT)—an independent agency responsible for prosecuting labor infractions—which had broader powers and was able to impose larger fines. The MPT has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting.

The Ministry of Social Development coordinated the government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. Because the public school day lasts only four hours, PETI emphasized complementary educational activities for children during non-school hours as an alternative to working. Approximately 569 thousand children benefited from this program, which contributed to a 50 percent decline in child labor since 1995 to an estimated 2.7 million persons in 2003.

To prevent child labor and promote education, the government also continued to promote its family stipend program (*Bolsa Família*), which provides approximately \$6 to \$40 (15 to 95 reais) monthly to low-income rural and urban families for each child (up to a total of three children per family) between the ages of 6 and 15 whose school attendance rate was 85 percent. Municipal governments had primary responsibility for day-to-day management of the program. At year's end the program provided stipends to over 8.7 million families in more than 5,560 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs.

In June the Federal District local government released a report noting that, in mid-2004, approximately 786 child laborers worked in Brasília. These minors, most of whom were primary school-age boys, were engaged in activities ranging from domestic labor to work in land dumps. According to the report, 90 percent of the child laborers attempted to balance their work with school, while 7 percent reported that they no longer attended classes.

NGOs supported the government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor, with chapters in every state and more than 40 institutional members from the government and private sector, promoted debate and broad analysis of national child labor prevention efforts. In addition the Centers for the Defense of Children and Adolescents were active in many parts of the country and reported violations of children's rights. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to reduce instances of child labor in the footwear industry.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research, income generating schemes, and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic services (see section 5).

UNICEF supported programs to remove children from exploitative work situations and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

The private sector also played a role in fighting child labor. The toy industry's Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The foundation also fostered initiatives through its awards programs for organizations,

journalists, and mayors. All major labor centrals implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

*e. Acceptable Conditions of Work.*—The national minimum wage did not provide a decent standard of living for a worker and family. The government adjusts the minimum wage annually and in May raised it from approximately \$125 to \$130 (from 288 reais to 300 reais) per month. The IBGE estimated that approximately one in three workers earned the minimum wage or less.

The law limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also prohibits excessive compulsory overtime and stipulates that hours worked above the weekly limit must be compensated at time and a half pay; these provisions generally were enforced in the formal sector.

Although the Ministry of Labor sets occupational, health, and safety standards that are consistent with internationally recognized norms, the government devoted insufficient resources for adequate inspection and enforcement of these standards. Unsafe working conditions were prevalent throughout the country. During 2004 workplace accidents increased to 458,956 (from 390,180 in 2003), and deaths from accidents increased to 2,801 (from 2,582 in 2003). Employees or their unions may file claims related to worker safety with regional labor courts, although this was frequently a protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. Such firings did occur, however, and legal recourse usually required years for a resolution. The MPT reported that numerous firms used computerized records to compile “blacklists” identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions, but workers could express such concerns to a company committee for an immediate investigation.

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## CANADA

Canada, with a population of 32.8 million, is a constitutional monarchy with a federal parliamentary form of government. Elections were held in June 2004, and until dissolution of parliament on November 29, Prime Minister Paul Martin led a minority Liberal government. Federal elections were scheduled for January 23, 2006. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- harassment of religious minorities
- violence against women
- trafficking of persons to and from the country

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them. However, in September the Royal Canadian Mounted Police (RCMP) began investigating allegations of brutality in the arrest and imprisonment in the Natuashish community of northern Labrador of an indigenous man with a broken arm who was left overnight in a police station without medical attention; the investigation was pending at year's end.

The Winnipeg police and the Law Enforcement Review Agency investigated allegations of physical abuse of a person with a criminal history who was arrested on September 23. The police claimed that the suspect, whose injuries necessitated hospital treatment, were the result of an accidental fall at the police station. The investigation remained pending at year's end.



*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

In February Correctional Service Canada began addressing the 19 recommendations made in the January 2004 Canadian Human Rights Commission report, which identified systemic flaws that routinely eroded the human rights of women in prison. Several of the recommendations have been implemented, including a reevaluation of staffing and a needs assessment for federally sentenced women.

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

*Role of the Police and Security Apparatus.*—The RCMP is an effective national, federal, provincial, and municipal policing body. It provides complete federal policing service throughout the country and also provides policing services under contract to the 3 territories, 8 provinces (Quebec and Ontario have their own provincial police), approximately 198 municipalities, and, under 172 individual agreements, 192 indigenous communities. The RCMP has internal review mechanisms; corruption and impunity were not problems.

*Arrest and Detention.*—Authorities generally apprehended persons openly with warrants. A judge may issue a warrant after being satisfied that a criminal offense may have been committed. A person arrested for a criminal offense has the right to remain silent, to be informed as to the reason for the arrest, to engage a lawyer, and to have prompt access to family members. Bail generally was available.

In December 2004 the Federal Court of Appeal affirmed that it was constitutional for the government to arrest and detain, without public trial, noncitizens who pose a threat to national security. Cases are presented in secret to two cabinet ministers by intelligence or police agencies and then reviewed by a federal judge. The evidence generally is not shown to the detained individual. If the judge approves the ministers' recommendation, the individual may be imprisoned indefinitely, pending deportation proceedings. This procedure has been used 27 times since 1991. As of October, pursuant to this procedure, four individuals were incarcerated awaiting deportation; two other detainees were conditionally released, subject to the administrative deportation process.

There were no reports of political detainees.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision in practice. The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

*Trial Procedures.*—The judicial system is based on English common law at the federal level as well as in most provinces; in Quebec Province, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is free for indigents), and to appeal. The prosecution also may appeal in certain limited circumstances.

An Ontario law permits Islamic organizations to hold tribunals in which marriage, family, and business disputes could be settled according to Shari'a law. The tribunals were voluntary, and decisions had to comply with the Charter of Rights and Freedoms and could be appealed to the court system. On September 11, Ontario's premier announced his government's intention to end civil endorsement of religious arbitration decisions in the province, and on November 15, the Ontario attorney general introduced legislation to end religious arbitration in family matters. On May 26, the National Assembly of Quebec passed legislation prohibiting the use of Islamic courts and Shari'a law in Quebec.

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

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

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press. The independent media were active and expressed a wide variety of views without restriction.

The Supreme Court has ruled that the government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. It also ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Inciting hatred (in certain cases) or genocide is a criminal offense, but the Supreme Court has set a high threshold for such cases, specifying that these acts must be proven to be willful and public. The Broadcasting Act prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt. Provincial-level film censorship, broadcast licensing procedures, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography also imposed some restrictions on the media.

In early May Toronto police charged a man with two counts of promotion of hatred that stemmed from nonviolent incidents of targeting Muslims, Arabs, and Jews between June and October 2004 at Ryerson University. He was charged with spray painting anti-Muslim graffiti in the multifaith prayer room on campus and anti-Semitic graffiti elsewhere around the university campus.

On July 8, a Saskatoon court found the former leader of the Assembly of First Nations guilty of willfully promoting hatred against Jews under the hate propaganda provisions of the Criminal Code and fined him \$850 (Cdn \$1 thousand). The charges stemmed from remarks made in a 2002 public address to the Federation of Saskatchewan Indian Nations. The case remained under appeal at year's end.

On September 1, the Federal Court of Appeal upheld the Canadian Radio-Television and Telecommunications Commission's July 2004 decision denying a renewal of a Quebec City radio station's broadcasting license. The general public had filed numerous complaints alleging that announcers on the station used offensive comments, personal attacks, and harassment as part of their programming. The station, which fired the talk show host, asked the Supreme Court to overturn the appeals court ruling. The station remained on the air, pending a supreme court ruling on whether to hear the case.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

There is no official state religion, and religious groups are not required to register with the government. Public funding for Roman Catholic schools is constitutionally protected in the country's original four provinces.

There was litigation concerning prohibitions against the wearing of *kirpans* (ceremonial daggers) by Sikhs; cases were often settled out of court. The rationale for the prohibitions involved security concerns rather than religious discrimination. A case brought by a Sikh elementary student in Montreal, who was prohibited from wearing his *kirpan* at school, remained pending in the Supreme Court at year's end. In early 2004 the Quebec Court of Appeal had overturned a 2002 Quebec Superior Court ruling that permitted the student to wear his *kirpan* to school.

In September and October, a Sikh law student was twice prohibited from riding on national rail carrier trains because he was wearing a *kirpan*. Company officials, responding to another passenger's complaint and referring to its baggage policy that bans weapons, required that the Sikh passenger disembark. Company policy makes no exceptions for religious symbols. The student's appeal to the Ontario Human Rights Commission for redress remained pending at year's end.

*Societal Abuses and Discrimination.*—There were a number of reports of harassment of religious minorities.

Approximately 1.1 percent of the population is Jewish. The League for Human Rights of B'nai Brith received 857 reports of anti-Semitic incidents in 2004, compared with 584 such reports in 2003. Incidents included harassment (53 percent of incidents), vandalism of property (43 percent), and violence (4 percent). The group expressed concern about a resurgence in neo-Nazi activity. In December, on the eve of Chanukah, Beth Shalom Synagogue in Edmonton was spray-painted with a swastika and the acronym ZOG (Zionist Occupied Government). The press reported that the provincial police hate crimes unit was investigating.

On January 19, one of the main suspects in the April 2004 firebomb attack on a Montreal Jewish elementary school was sentenced to 40 months in prison minus time served. The convict's mother also faced trial on charges of being an accessory after the fact. Letters attached to the front of the school claimed that the attack

was linked to the March 2004 killing of Hamas founder Sheik Ahmed Yassin in Gaza.

Three men were convicted of vandalism in connection with a north Toronto crime spree in 2004 that included the desecration of Jewish cemeteries, schools, and synagogues. Two minors and one adult offender were sentenced to two years of probation plus community service.

On February 16, a Toronto court sentenced a man to life imprisonment without a chance of parole for at least 15 years for the 2002 murder in Toronto of an Orthodox Jew, an incident in which the perpetrator uttered anti-Jewish epithets prior to the attack.

According to the Council of American-Islamic Relations Canada's June 8 report *Presumption of Guilt: A National Survey on Security Visitations of Canadian Muslims*, there was increasing concern in the Muslim community about visits by security officials, both at home and in workplaces. According to the report, authorities made a disproportionate number of visits to Arab males between the ages of 18 and 35. The report detailed seven specific cases in which security officials were alleged to have discouraged legal representation, failed to provide proper identification, or used threats and threatening behavior in the course of their interviews. These and other activities raised allegations of religious profiling. The report remained under federal government consideration at year's end.

The government urged the population to refrain from prejudice against Muslims or other persons on the basis of their religious beliefs, ethnic heritage, or cultural differences. Police forces investigated and discouraged anti-Muslim actions.

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

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

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the 1966 International Covenant on Civil and Political Rights, and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The government has established a system for providing protection to refugees. The government granted refugee status or asylum. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. As of September 30, approximately 16,208 individuals either in the country or abroad were resettled and given refugee status.

In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government offered alternatives to refugee claimants whose cases have been refused by the Immigration and Refugee Board. The option for judicial review through the federal court exists, although the government delayed establishing the Refugee Appeal Division called for in the 2002 Immigration and Refugee Protection Act. Two other remedies of last resort are available through Citizenship and Immigration-Canada. They include the initiation of a "pre-removal risk assessment" process as well as an appeal to the minister for citizenship and immigration services for a waiver based on humanitarian and compassionate grounds.

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

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

*Elections and Political Participation.*—In the free and fair multiparty June 2004 general election the ruling Liberal Party maintained control of parliament for the fourth consecutive election. Since it did not win a majority of seats, the Liberal Party formed a minority government. Federal elections were scheduled for January 23, 2006.

Prior to the dissolution of parliament on November 29, there were 65 women and 6 indigenous people (Inuit, North American Indian, or Metis) in the 308-member House of Commons. There were 38 women and 8 indigenous members in the 105-seat Senate (whose members are appointed by the government, and not elected, and in which there 93 members at year's end). Women held 9 seats in the 39-person cabinet. The governor general and four of the nine members of the Supreme Court, including the chief justice, were women.

*Government Corruption and Transparency.*—The nongovernmental organization (NGO) Transparency International reported that corruption was not perceived as a problem, although the perception of corruption has increased markedly over the past 10 years.

There were isolated reports of government corruption during the year, and there was concern about the lack of enforcement of whistleblower legislation. Career civil servants found to be engaged in malfeasance of any kind were removed from office and prosecuted.

On November 1, an independent commission appointed by the prime minister, the Commission of Inquiry into the Sponsorship Program and Advertising Activities or Gomery Commission, released the first part of its two-part report. The report established that nearly half of the \$309 million (Cdn \$355 million) in federal funds authorized to promote federal Canada in Quebec from 1996 to 2001 was paid in commissions and fees to advertising agencies, many allied with the Quebec branch of the federal Liberal Party, and that up to \$87 million (Cdn \$100 million) was inappropriately channeled to the Liberal Party of Canada's Quebec operations. The report criticized former prime minister Jean Chretien and his chief of staff but cleared them of direct involvement in kickback schemes. Several senior advertising executives were charged with fraud, and some former and current Liberal Party officials were forced to resign. Former prime minister Chretien's appeal to have the findings of the report invalidated remained pending at year's end.

The Gomery Commission findings prompted extensive media coverage, tarnished the reputation of the government, especially in Quebec, and led to the conviction of one Montreal advertising executive, while trials for others remained pending. In May the businessman pled guilty to defrauding the federal government of \$1.35 million (Cdn \$1.55 million) and was sentenced to two years less a day, to be served in the community, rather than in jail. A government appeal on the leniency of the sentence remained pending.

The law permits public access to government information by citizens and noncitizens, including foreign media. Pursuant to the January 2004 initiative to improve transparency in government that included the releasing on a quarterly basis the public expenditures of senior government officials, the government published expense information on individual ministerial Web sites and on a centralized Web site.

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

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

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

The law provides for equal benefits and protection of the law regardless of race, gender, national or ethnic origin, age, or mental or physical disability; these rights generally were respected in practice.

In July the law extended equal access to civil marriage to same-sex couples. Previously, eight provincial courts and one territorial court found that the opposite-sex requirement for civil marriage was discriminatory and violated the Charter of Rights and Freedoms.

*Women.*—Although prohibited by law, violence against women, including spousal abuse, remained a problem. The government's statistical office reported that there were 73.7 sexual assaults per 100 thousand population in 2004, down from 74.1 in 2003.

The 2004 General Social Survey estimated that 7 percent of citizens 15 years of age or over in a current, previous, or common-law union experienced spousal violence in the previous 5 years, a figure unchanged from its 1999 survey. Four percent of both men and women in current marital or common-law relationships experienced either physical or sexual violence from their partner. Indigenous (aboriginal) people were three times more likely to be victims of spousal violence than nonindigenous people. The rate of spousal violence among those who are gay or lesbian was twice that of the reported violence experienced by heterosexuals. Women were more likely than men to report that they were injured as a result of the violence (44 versus 18 percent).

Persons convicted of sexual abuse may be penalized with up to 10 years in prison. Sexual assaults involving weapons, threats, injuring, or endangerment of life carry sentences up to life imprisonment.

There were more than 500 shelters for abused women, which provided both emergency care and long-term assistance. The government's family violence initiative in-

volving 12 departments and a cabinet ministry, Status of Women Canada, was charged with eliminating systemic violence against women and advancing women's human rights.

In September Amnesty International reported that there were no changes to its 2004 findings that the government failed to provide indigenous women with adequate protection and that the precarious social and economic status of indigenous women pushed them into dangerous situations including poverty, homelessness, and prostitution.

Prostitution is legal, but the law prohibits pimping (benefiting from the earnings of prostitution of another) and operating, being found in, or working in a brothel.

Women were trafficked for purposes of sexual exploitation (see section 5, Trafficking).

The law prohibits criminal harassment (stalking) and makes it punishable by up to 10 years' imprisonment. The law does not contain a specific offence of "sexual harassment" but contains criminal prohibitions that may be applicable in addressing this conduct, such as criminal harassment and sexual assault. Penalties for sexual assault vary, depending on the offence, and range from 10 years' imprisonment for nonaggravated sexual assault and up to life imprisonment for aggravated sexual assault. Most harassment cases were settled out of court. The government generally enforced this prohibition.

Women were well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights equal to those of men.

*Children.*—The government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade 13 and is compulsory nationwide through age 15 or 16, depending on the province. The UN Children's Fund reported that 100 percent of elementary-age children attended school; high school was the highest level completed by most children. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

According to the 2004 General Social Survey, children and youth under the age of 18 accounted for 21 percent of victims of physical assault and 61 percent of victims of sexual assault, while representing 21 percent of the population. In 40 percent of the cases, parents were the ones accused of sexual assault against children and youth.

Children were trafficked for purposes of sexual exploitation (see section 5, Trafficking).

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country.

In November the government amended the criminal code to make trafficking in persons a specific criminal offense and prohibit global trafficking in persons, benefiting economically from trafficking in persons, and withholding or destroying documents to facilitate trafficking in persons. The 2002 Immigration and Refugee Protection Act (IRPA) establishes criminal penalties of up to life in prison and fines of up to \$870 thousand (Cdn \$1 million) for convicted cross-border traffickers. The government prosecutes all forms of trafficking, including kidnapping, forcible confinement, uttering threats, sexual assault, prostitution-related offenses, and extortion.

On April 14, Vancouver police brought the first case under IRPA against the owner of a massage parlor who was charged with two counts of human trafficking for bringing women into the country under false pretenses and coercing them into prostitution. The case was pending at year's end.

During the 12-month period ending in February, authorities charged at least 31 individuals under the criminal code with trafficking-related offenses and obtained 19 convictions.

The government has an interdepartmental working group, consisting of 17 departments and agencies and co-chaired by senior officials from the Ministries of Justice and Foreign Affairs, to combat trafficking in persons. In September the government designated RCMP members for their newly renamed Human Trafficking National Coordination Center that coordinates domestic trafficking efforts with six RCMP immigration and passport regional offices.

Through agencies such as Interpol, the government has created mechanisms to assist other countries with criminal investigations of trafficking cases.

The country was a destination and a transit point to the United States for women, children, and men trafficked for purposes of sexual exploitation, labor, and the drug trade. In its February 2004 assessment, the RCMP indicated that 800 persons were trafficked annually into the country, and 1,500 to 2,200 persons were trafficked from

the country to the United States. While the country was not a significant point of origin for trafficked persons, there was anecdotal evidence of women from the country coerced or kidnapped and forced into prostitution in the United States.

Thousands of persons entered the country illegally over the last decade. These persons came primarily from East Asia (particularly China and Korea, but also Malaysia), Central and South Asia, Eastern Europe, Russia, Latin America and the Caribbean (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants paid large sums to be smuggled to the country, were indentured to their traffickers upon arrival, worked at lower than minimum wage, and used most of their salaries to pay down their debt at usurious interest rates. The traffickers used violence to ensure that their clients paid and that they did not inform the police. Asian women and girls who were smuggled into the country often were forced into prostitution. Traffickers used intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep victims from running away or informing the police.

Vancouver and Toronto served as hubs for organized crime groups that trafficked in persons, including for prostitution. East Asian crime groups targeted the country, Vancouver in particular, exploiting immigration laws, benefits available to immigrants, and the proximity to the US border.

Trafficking victims in the country illegally may avail themselves of laws and regulations to remain in the country temporarily or permanently. These include temporary resident permits which an applicant may use as the basis for permanent residence, refugee protection claims, stays of removal, applications for humanitarian and compassionate consideration, and preremoval risk assessments. However, strong anecdotal evidence suggests that some victims of trafficking were arrested and deported.

Although the government did not specifically provide funding to assist trafficking victims, such victims could access a number of programs and services, ranging from health care to legal assistance. Victims of trafficking were eligible to apply for assistance from victims' assistance funds maintained by the provincial governments.

The government's Interdepartmental Working Group on Trafficking in Persons, the policy development body for the federal government, trained officials to increase awareness about trafficking. The group also produced, translated into 14 languages, and distributed an antitrafficking pamphlet to the country's diplomatic missions and to NGOs with access to potential victims in source countries. In addition, the government supported efforts by NGOs and community organizations to raise awareness of trafficking and funded academic studies of the problem.

*Persons with Disabilities.*—There was no legal discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice.

The federal, provincial, and territorial governments share responsibility for protecting the rights of persons with disabilities. The Office for Disability Issues is the federal government's focal point for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and establishes English and French as the country's two official languages. Despite the federal policy of bilingualism, English speakers in Quebec (9 percent of the province's population) and French speakers in other parts of the country generally lived and worked in the language of the majority. The provinces may grant French or English the status of an official language. Only New Brunswick has granted the two languages equal status. The Charter of the French Language in Quebec makes French the official language of the province and requires the use of French in commerce, the workplace, education, and government. Minority language rights are secured by law in Quebec's Charter of the French Language.

The Charter of the French Language restricts access to publicly funded English education to those students who did most of their elementary or secondary studies in English in the country. The law also permits English language education for those students with a brother or a sister who did most of their elementary or secondary studies in English in the country or for students whose father or the mother did most of his or her studies in English in the country. Quebec law also grants access to publicly funded English education to those students whose parents are residing temporarily in the province on a student or work authorization or who have diplomatic status. On March 31, the Supreme Court ruled that Francophones in Quebec have no constitutional right to publicly funded English language education.

but stipulated that immigrants and families from other provinces who have moved to Quebec may access English language schools by obtaining a waiver.

*Indigenous People.*—The law recognizes three different groups of indigenous people (aboriginals): Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). According to the 2001 census, indigenous people constituted approximately 3.3 percent of the national population and higher percentages in the country's three territories: Yukon, 22.9 percent; Northwest Territories, 50.5 percent; and Nunavut, 85 percent. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on some reserves. Indigenous people remained underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The law recognizes and specifically protects indigenous rights, including those established by historical land claims settlements. Historical treaties with indigenous groups in the eastern part of the country form the basis for the government's policies there, but there were legal challenges to the government's interpretation of treaty rights. Indigenous groups in the west that never signed historical treaties continued to claim land and resources, and many continued to seek legal resolution of outstanding issues. As a result, the evolution of the government's policy toward indigenous rights, particularly land claims, was linked closely to legal challenges, including 45 supreme court decisions.

On May 31, the government and leaders of the five national indigenous organizations agreed on a plan to use the \$609 million (Cdn \$700 million) that the government had committed in September 2004 to encourage greater aboriginal participation in the health professions, address chronic diseases such as diabetes, and create a health transition fund to adapt existing health care services to aboriginal needs. At a follow-up November 24–25 meeting of provincial premiers, cabinet ministers, and leaders of the five national indigenous groups, the federal government committed an additional \$4.35 billion (Cdn \$5 billion) over 5 years to support programs in education, housing and infrastructure, relationships and accountability, economic opportunities, and health.

In June parliament approved a land claims agreement among the federal government, the Newfoundland and Labrador provincial government, and the Inuit Association that defined rights, territory, and economic development initiatives in northern Labrador.

On July 20, the Supreme Court ruled that indigenous people in New Brunswick and Nova Scotia did not have the right to exploit natural resources on the provinces' crown lands or have aboriginal title to those lands. Nonetheless, the New Brunswick provincial government continued to work with the province's 15 indigenous communities by negotiating agreements on timber harvesting, sale, and royalty agreements.

On November 20, the government reached a multifaceted agreement with interested parties regarding cases of past institutional abuses of indigenous children (now adults) in residential institutions. The government agreed to allocate \$1.65 million (Cdn \$1.9 million) to compensate indigenous individuals for abuses that occurred in Indian residential schools. As many as 86 thousand former students may be eligible for payments of \$8,700 (\$10 thousand) plus \$2,600 (Cdn \$3 thousand) per year spent in the school. Additional payments could be awarded as a result of a new alternative dispute resolution process for those who choose to pursue that option. Payments could begin in early 2006. The settlement also provides for the establishment of national truth and reconciliation process to promote public education and awareness about the Indian residential school system.

The government continued the process of claim settlements and self-government negotiations with more than 350 First Nations communities.

There were no reported developments in the 2004 case pending before the Supreme Court on whether the government violated indigenous treaty rights in authorizing a road through the country's largest national park or in the 2002 case involving a claim by the Gitanyow indigenous group in northwestern British Columbia that a treaty had awarded much of their tribal lands to the neighboring Nisga'a people.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers in both the public (except armed forces and police) and the private sectors to form and join unions of their choice without previous authorization, and workers did so in practice.

Trade unions are independent of the government. Thirty percent of the civilian labor force held union memberships.

*b. The Right to Organize and Bargain Collectively.*—The law protects collective bargaining, and collective agreements covered approximately 32 percent of the civilian labor force. All workers, except for those in the public sector who provide essential services, have the right to strike, and workers exercised this right in practice. The law prohibits employer retribution against strikers and union leaders, and the government generally enforced this provision in practice. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor legislation varies from province to province. The federal government does not employ youths under age 17 while school is in session. Most provinces prohibited children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. On July 15, the province of Alberta changed its employment standards to allow children age 12 to 14 to work in certain sectors for limited periods of time without a permit from the director of employment standards. The province of British Columbia permits employment of children between age 12 and 14, with the written consent of the child's parent or guardian, and also permits employment of children under age 12, with the permission of the director of employment standards and only in "exceptional circumstances," for instance, in the entertainment industry.

Federal and provincial labor ministries' inspections effectively enforced child labor laws and policies.

*e. Acceptable Conditions of Work.*—Each province and territory set minimum wage rates, which ranged from \$5.13 to \$6.95 (Cdn \$5.90 to \$8.00) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage did not provide a decent standard of living for a worker and family.

Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 hours per week, with at least 24 hours of rest. The law requires payment of a premium for work above the standard workweek. There is no specific prohibition on excessive compulsory overtime, which is regulated by means of the required rest periods in the labor code that differ from industry to industry.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitored and enforced these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and remove themselves from hazardous work conditions, and authorities effectively enforced this right.

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## CHILE

Chile is a multiparty democracy with a population of approximately 16 million. In 2000 voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. In presidential elections on December 11, Michelle Bachelet, a candidate from the Socialist Party, itself a part of the Concertacion coalition, and Alianza candidate Sebastian Pinera emerged as the top two vote-getters and moved on to a run-off election scheduled for January 15, 2006. Voters also elected 20 of the 38 senators and all 120 members of the Chamber of Deputies on December 11 in elections generally considered free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- isolated reports of excessive use of force and mistreatment by police forces and physical abuse in jails and prisons
- substandard prison conditions
- failure to advise detainees promptly of charges against them and to grant them a timely hearing
- domestic violence against women and children
- trafficking in persons to, from, and within the country
- marginalization of some indigenous people
- child labor in the informal economy



The judiciary convicted and sentenced several former officials for human rights abuses committed during the 1973–90 military regime. In September constitutional reforms took effect that removed certain limits on popular civilian rule (such as non-elected senators) and eliminated the offense of defamation against public persons and institutions.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

A number of cases from previous years, in which the police were accused of unlawful killings due to excessive use of force or mistreatment of prisoners in custody, remained under investigation or pending resolution of appeals.

On June 9, Rancagua appeals court judge Raul Mera reopened the case of Raul Pellegrini and Cecilia Magni, two activists killed in 1988. The case remained pending at year's end.

In March the Chamber of Deputies approved a \$1.5 million (780 million pesos) payment to the family of dual Chilean-Spanish citizen Carmelo Soria who was executed by National Intelligence Directorate (DINA) agents in 1976.

In September the Supreme Court upheld an appeals court ruling dropping charges against former President Augusto Pinochet in the "Operation Condor" case, citing mental health reasons and a 2001 Supreme Court ruling that Pinochet was not mentally fit to stand trial in the "Caravan of Death" case. At year's end Pinochet faced human rights charges in the "Operation Colombo" case and for financial dealings involving concealed assets, tax evasion, possible kickbacks, and misuse of public funds.

Judge Alejandro Solis continued an investigation of the 1974 car bomb assassination in Buenos Aires of former army commander Carlos Prats. Seven former DINA agents, including former DINA director Manuel Contreras, and one civilian have been indicted in the case. In March the Santiago Court of Appeals rejected Judge Solis's request to lift former President Pinochet's immunity in the case, and in April ex-DINA agent Reginaldo Valdes Alarcon was indicted as an accomplice for his involvement. At the end of the year, all those indicted in the Prats case were free on bail, except for Contreras, who was serving a 12-year sentence for the death of Miguel Angel Sandoval.

Judge Jorge Zepeda's investigation of retired security officer Rafael Gonzales, charged in connection with the 1973 killing of American citizen Charles Horman, remained pending at year's end.

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

Courts prosecuted a number of cases based on plaintiffs' arguments that the abduction of political prisoners constituted an ongoing crime, not covered by amnesty, unless the subsequent execution of the subject could be established concretely by identification of remains. The Supreme Court upheld a number of convictions based on indefinite or permanent kidnapping.

In September Judge Jorge Zepeda sentenced two former DINA directors, Manuel Contreras and Marcelo Moren Brito, to seven years' imprisonment as authors of the 1974 kidnapping of former manager of Cobrechuqui (a nationalized copper company) David Silberman Gurovich. Judge Zepeda also ordered the government to pay \$2 million (1.04 billion pesos) to Silberman's widow, children, and siblings.

The judiciary continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. According to the Vicariate of Solidarity (a foundation linked to the Archdiocese of Santiago), in 2004 there were 373 former officials (mostly military officials but including some civilians) charged and under investigation for human rights violations against 948 victims. The press reported that in 2004, 46 former security force members and 19 civilians were convicted of human rights violations and sentenced to prison terms; 24 of these individuals have been released after completing their sentences.

Judge Jorge Zepeda continued investigations of military-era detentions and disappearances of persons at Colonia Dignidad, now called Villa Baviera, a German-speaking settlement 240 miles south of Santiago. On March 10, settlement founder Paul Schaefer was apprehended in Argentina and returned to the country. Schaefer was subsequently indicted for his involvement in the kidnapping of four dissidents under the former military regime. Several of Schaefer's associates, including Gerard Muecke, were jailed and remained under investigation for possible human rights violations at Colonia Dignidad.

The investigation into the 1985 disappearance of US citizen Boris Weisfeiler near Colonia Dignidad remained open at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, nongovernmental organizations (NGOs) still received isolated reports of abuse and mistreatment by the Carabineros, the Investigations Police (PICH), and prison guards.

Few reports of abuse or mistreatment led to convictions. Cases of military and police abuse typically were processed in military rather than civilian courts (see section 1.e.).

On July 19, three officers in the Gendarmeria were indicted in a court of first instance in Colinas, Santiago, for a 2002 incident in which two prisoners suffered hearing loss due to alleged mistreatment at a high-security cellblock in the Colinas II prison. No further information was available.

There were isolated instances of violent confrontations between indigenous Mapuche groups and landowners, logging companies, and local government authorities in the southern part of the country. The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. On October 5, eight hooded individuals attacked a property owner and his wife, tying them up and burning their residence to the ground. Although the attackers have not been identified, the farm where the attack occurred had been the target of indigenous protests and occupations over a 4-year period. In November eight armed individuals held employees and their families at gunpoint while burning two cabins and an automobile at a Mininco forestry company site. Although the attackers were not identified, they left pamphlets from the Coordinadora Arauco Malleco (CAM), an indigenous group that has been accused of terrorist acts in previous land disputes.

On June 22, a judge upheld the acquittal of four CAM-related Mapuches and a nonindigenous sympathizer charged with illicit "terrorist association"; in November the Supreme Court denied the public prosecutor's appeal of the Temuco court's decision. Eight others refused to appear for trial and remained at large and sought by authorities at year's end.

*Prison and Detention Center Conditions.*—Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions. There were approximately 38 thousand prisoners in prisons designed to hold 22 thousand inmates. A 2004 Diego Portales University School of Law study on prison conditions stated that, despite improvements, prison facilities such as health care remained substandard. Prison food met minimal nutritional needs, and prisoners were able to supplement their diets by buying food. Those with sufficient funds often could "rent" space in a better wing of the prison. The first of 10 newly constructed prisons intended to improve conditions opened in Rancagua in November.

In isolated instances prisoners died due to lack of clear prison procedures and insufficient medical resources in the prisons. In January the NGO Friends and Family of Prisoners reported that 26 prisoners died of various preventable causes in 2004: 13 of the deaths were due to violence between prisoners, 3 were suicides, 3 resulted from drug overdoses, and 1 was attributed to HIV-related complications. The remaining six deaths (four at Colina II prison) were due to unknown causes, with one occurring in solitary confinement.

There was no further information regarding the investigations of the 2003 fire at the El Manzano facility, which caused nine fatalities.

The government permitted prison visits by independent human rights observers, and such visits took place. These included regular visits by Catholic and Protestant clerics and the NGO Paternitas. Amnesty International and the International Committee of the Red Cross were also granted access to facilities and prisoners. Prisoner rights groups continued to investigate alleged use of excessive force against detainees and particularly were concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental disabilities who allegedly failed to receive adequate medical attention.

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

*Role of the Police and Security Apparatus.*—The 27,000-member Carabinero force, under operational control of the Ministry of Defense and the Ministry of Interior, has primary responsibility for public order, safety, traffic control, and border security. The civilian PICH, comprising approximately 3,500 detectives, is responsible for criminal investigations and immigration control. The PICH, while under the operational jurisdiction of the Ministry of Interior, also receive guidance from the prosecutor or judge responsible in a criminal investigation. The Gendarmeria, under jurisdiction of the Ministry of Justice, operates the national prison system. The po-

lice force had an extremely low incidence of corruption. Police, prison guards, and officials took courses in human rights, which are part of the core curriculum in the police and military academies.

*Arrest and Detention.*—Only public officials expressly authorized by law can arrest or detain citizens. The courts must be advised within 48 hours of the arrest and the detainee placed at a judge's disposition. No one can be held or detained except in their home or a jail, prison, or other public facility designed for that purpose.

While the authorities generally respected constitutional provisions for arrest and detention, detainees often were not advised promptly of charges against them, nor granted a timely hearing before a judge. However, under judicial reforms, which took final effect in June, performance improved and over 80 percent of cases were resolved within the designated period. The law allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law allows judges to set bail. Provisional liberty must be granted unless a judge decides that detention is necessary to the investigation or for the protection of the prisoner or the public.

The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. Regular visits by family members are allowed.

The law requires that police inform detainees of their rights and expedite notification of the detention to family members. The law also prohibits police from demanding identification from or stopping persons based solely on suspicion and prohibits physical abuse by police against detained persons (see section 1.c.).

There were no reports of political detainees.

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

The judiciary has civil, criminal, juvenile, family, and labor courts of first instance throughout the country. There are 16 courts of appeal. The 21-member Supreme Court is the court of final appeal. A constitutional tribunal decides whether laws or treaties present conflicts with the constitution. There are also military courts martial.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Public Defender's Offices in all 12 regions and the Santiago Metropolitan Region provide professional legal counsel to anyone seeking such assistance. The June implementation of the judicial reform law in the Santiago Metropolitan Region concluded a 6-year transformation of the national justice system from an inquisitorial to an adversarial model. The judicial reform law provides that national and regional prosecutors investigate crimes, formulate charges, and prosecute cases, leaving judges the narrower function of weighing the merits of evidence presented to them. Three-judge panels form the court of first instance, the process is oral and adversarial, and trials are public. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel, and the Public Defender's Office provides professional legal counsel. Defendants have a right of appeal. When requested by other human rights organizations or family members, the NGO Corporation for the Promotion and Defense of the Rights of the People and other lawyers working *pro bono* assisted detainees during interrogations and represented some persons charged with terrorist acts in court. Defendants enjoy a presumption of innocence.

If formal charges are filed in civilian courts against a member of the military (including the Carabineros), the military prosecutor can ask for jurisdiction, which the Supreme Court sometimes has granted. This was particularly significant in human rights cases from the period covered by the Amnesty Law, since military courts were more likely to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer also were brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and the Supreme Court ultimately may hear appeals. A military prosecutor formulates charges and conducts the investigation, and the first instance of appeal is in a court martial, composed of two civilian and three military judges.

*Political Prisoners.*—There were no reports of political prisoners, although a number of inmates in Santiago's maximum-security prison charged with terrorist acts

following the return to democracy in 1989, claimed to be political prisoners. On July 19, the Senate approved a law allowing prisoners convicted on terrorism charges to apply for parole; 32 prisoners were eligible to apply under the provisions.

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

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice, subject to significant legal restrictions.

Human rights groups and press associations criticized the existence and application of laws that prohibit insulting state institutions, including the presidency, the legislature, and judicial bodies, and that allow government officials to bring charges against journalists who insult or criticize them. Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (see section 1.e.). Media and individuals can also be sued for libel. In August Congress passed a law abolishing the penalty for questioning the honor of public figures (*desacato*). In September constitutional reforms eliminated the offense of defamation against public persons and institutions but created penalties for invading the privacy of private persons and for “insults against personal honor.”

The law prohibits the surreptitious taping or recording of private conversations. In July authorities sentenced Sebastian Rodriguez to 3 years in prison and fined him \$5,770 (3 million pesos) for covertly videotaping a conversation with the judge in a high-profile pedophilia case and for attempted extortion. A producer and 3 journalists for ChileVision TV, which broadcast the footage in 2003, were given 61-day suspended sentences and fined \$2,885 (1.5 million pesos) for their role in the illegal taping. A senator’s July 2004 civil suit against the Channel 13 television station and several individuals for airing a television interview naming him in a sexual abuse case was dropped after Channel 13 issued a public apology and paid an undisclosed monetary settlement.

Two major media groups controlled most of the print media, which largely were independent of the government. The government was the majority owner of *La Nacion* newspaper but did not directly control its editorial content.

The broadcast media generally were independent of direct government influence. The Television Nacional network was state-owned but not under direct government control. It was self-financed through commercial advertising, editorially independent, and governed by a board of directors appointed by the president and approved by the senate.

The government-funded National Television Council (CNT) was responsible for ensuring that television programming “respects the moral and cultural values of the nation.” The CNT’s principal role was to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent, have obscene language, or have sexually explicit scenes may be shown only after 10 p.m. when “family viewing hours” end. The CNT occasionally levied fines.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Although the law grants non-Catholic religions the right to have chaplains in public hospitals, prisons, and military units, some leaders of the country’s Protestant churches (accounting for more than 15 percent of the population) noted a reluctance to name Protestant chaplains in the armed forces and obstacles to pastoral visits at military hospitals.

While schools were required to offer religious education twice a week through middle school, enrollment in such classes was optional. The law mandates teaching the creed requested by parents, but enforcement was sometimes lax. Instruction was almost exclusively Roman Catholic.

In September the Supreme Court sustained a government challenge to the registration of the Unification Church as a religious nonprofit organization. The Unification Church continued to operate under a more limited private nonprofit status and planned to appeal the ruling to the Inter-American Court on Human Rights.

*Societal Abuses and Discrimination.*—There were no reports of societal violence, harassment, or discrimination, including anti-Semitic acts, against members of religious groups. The Jewish community was estimated at approximately 21 thousand persons.

In June after a television program exposed the existence of neo-Nazi groups in Chile engaging in violence and criminal activities against immigrants, homosexuals, punk rockers, and anarchists, the Human Rights Committee of the Chamber of Deputies presented a bill to initiate a congressional investigation of such movements. At year's end the bill remained pending in the chamber.

A quarterly neo-Nazi tabloid newspaper published several editions in Temuco, a regional capital. Government authorities suspended publication in September, and no further editions were published.

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

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

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. In 2004, 568 persons residing in the country had recognized refugee status. The government also provided temporary protection to 85 individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. These individuals were eligible for government-funded health care and education while awaiting adjudication of their cases, and were financially supported by the Office of the UN High Commissioner for Refugees (UNHCR) and other organizations. The government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

*Elections and Political Participation.*—In 2000 voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party. On December 11, Concertacion candidate Michelle Bachelet and Alianza opposition candidate Sebastian Pinera emerged as the top two vote-getters in the first round of the presidential elections. Since no candidate won more than 50 percent of the vote, Bachelet and Pinera moved on to a run-off election on January 15, 2006. Voters also elected 20 of the 38 Senators and all 120 members of the Chamber of Deputies on December 11 in elections generally considered free and fair. The new president and congress will assume office on March 11, 2006.

In August the congress ratified constitutional reforms abolishing provisions of the 1980 constitution (promulgated by the Pinochet regime) that limited the president's right to remove the commanders-in-chief of the three armed services and the Carabineros. The reforms also eliminated all nonelected senatorial posts effective March 2006, reduced the presidential term from six to four years with no consecutive terms, and made the National Security Council a purely advisory body. The new provisions went into effect in September.

There were 15 women in the 120-seat Chamber of Deputies, 2 women in the 48-seat Senate, and 3 women in the 16-member cabinet. Indigenous people have the legal right to participate freely in the political process, but relatively few were active. No members of the legislature acknowledged indigenous descent.

*Government Corruption and Transparency.*—Transparency International's annual corruption index recorded that the public perceived the country as relatively free of corruption. In June the Rancagua appeals court upheld the 2004 convictions of President Lagos' former undersecretary of transportation, three deputies from the government coalition, a former chief of cabinet from the Ministry of Public Works, and three businessmen for the crimes of bribery and subornation. A judicial inves-

tigation into allegations of Ministry of Public Works involvement in a broader kick-back scheme continued at year's end.

The Freedom of Information Act requires the government and its agencies to make all unclassified information about their activities available to the public. All government ministries and most public agencies have web pages. In May the NGO Participa released a study (based on 140 requests made by 7 individuals to ministries, municipalities, courts, and businesses providing public services) that found that national and local government agencies failed to respond to direct information requests in 69 percent of the cases. In the remaining cases, 14 percent of the responses were delayed, incomplete, or otherwise deficient.

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

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

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

The law prohibits discrimination based on race, color, gender, age, nationality, national origin, or social status; while the government enforced this prohibition, such discrimination occurred in practice.

*Women.*—Domestic violence against women was a serious problem. A 2004 National Women's Service (SERNAM) study reported that 50 percent of married women have suffered spousal abuse; 34 percent reported having suffered physical violence and 16 percent psychological abuse. From 2002 to 2003, approximately 91 percent of the calls the Carabineros received regarding domestic violence related to aggression against women; Carabineros made arrests in 88 percent of their responses to domestic disputes.

The courts frequently order counseling for those involved in intrafamily violence. At year's end there were 17 government and 8 private centers to attend to victims of intrafamily violence. During the year, the SERNAM together with NGOs conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities.

Rape, including spousal rape, is a criminal offense. Penalties for rape range from 5 to 15 years' imprisonment, and the government generally enforced the law. The age for statutory rape is 14. The law protects the privacy and safety of the person making the charge. In 2003 police received reports of 1,658 cases of rape. This number did not include other forms of sexual violence or abuse. Experts believed that a majority of rape cases went unreported.

The Ministry of Justice and the Investigations Police had several offices specifically to provide counseling and assistance in rape cases. A number of NGOs, such as La Morada Corporation for Women, provided counseling for rape victims.

Although adult prostitution is legal, bordellos are not. Several hundred women were registered as prostitutes with the national health service. Police often detained prostitutes (usually as a result of complaints by neighborhood residents) on charges of "offenses against morality," which could lead to a \$96 (50 thousand pesos) fine or five days in prison. Procurement or pandering is illegal and punishable under law. Inducing a minor (below age 18) to have sex in exchange for money or other favors is illegal. Punishment ranges from 3 to 20 years in prison and a \$1 thousand (520 thousand pesos) fine depending on the age of the minor. A police sexual crimes brigade was specifically charged with investigating and prosecuting pedophilia and child pornography cases.

Sexual harassment generally was recognized as a problem. In January congress passed a law against sexual harassment that provides protection and financial compensation to victims and penalizes harassment by employers or co-workers. The Labor Directorate reported that during the first 120 days of the new law, there were 95 complaints—87 made by women and 7 by men. Nearly half of the complaints were resolved quickly. In the most serious case, the accused was dismissed and fined \$1,150 (600 thousand pesos).

Women enjoy the same legal rights as men, including rights under family law and property law. The 2004 National Socio-Economic Survey suggested that the overall gender income gap remained at 30 percent. The income gap widened to 40 percent in managerial and professional positions. Women's workforce participation rose to 42 percent. The minimum wage for domestic workers, probably the largest single category of working women, was 75 percent of the standard minimum wage (see section 6.e.). The Labor Code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal; these benefits also apply to do-

mestic workers. Employers may not ask women to take pregnancy tests prior to hiring them, although the NGO La Morada received reports that the practice continued in some companies. The SERNAM is charged with protecting women's legal rights.

*Children.*—The government is committed to children's rights and welfare.

Education is universal, compulsory, and free from 1st through 12th grade. The latest government figures showed that in 2002 the median level of education was 10 years but varied regionally and across age groups. Three-quarters of the population had completed primary education (8 years), and 61 percent had secondary education (12 years).

The government provided basic health care through a public system, which included regular checkups, vaccinations, and emergency health care. Boys and girls had equal access to medical health care.

Violence against children was a problem. A 2003 study by the Citizens' Peace Foundation indicated that 60 percent of children surveyed between the ages of 7 and 10 had suffered some type of aggression against them or their belongings either inside or outside their homes.

In the first 6 months of 2003 (the most recent period for which statistics were available), the National Minors Service (SENAME) handled 28,642 cases of mistreated children; 4,158 of these cases involved sexual abuse or grave physical harm. SENAME, the Carabineros and PICH worked together and with schools and NGOs to identify children in abusive situations. Abused children and their families were provided counseling and other social services; efforts were made to keep families intact.

Child prostitution was a problem (see section 5, Trafficking).

Child labor in the informal economy was a problem (see section 6.d.).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to, from, and within the country.

The law criminalizes promoting the entry into or exit from the country of persons for the purpose of facilitating prostitution, with penalties of up to three years in prison and a fine of \$827 (430 thousand pesos). Sanctions are increased in a number of circumstances, including cases in which the victim is a minor; in which violence or intimidation is used; deception or abuse of authority is involved; the victim is related or under the tutelage of the perpetrator; or advantage is taken of a victim's circumstances or handicap. The law criminalizes the prostitution of children and corruption of minors, and the age of consent for sexual relations is 14. The law criminalizes obtaining sexual services from a minor in exchange for money or other considerations. Statistics on prosecutions and convictions were not available.

While there is no designated lead agency on trafficking in persons, the PICH sex crimes and cybercrime units worked with the Ministries of Justice and Interior to address trafficking. The government also cooperated with Interpol on law enforcement activities.

There were no current statistics available on the extent of trafficking. The head of the PICH Sexual Crimes Unit stated that there were no reported cases of trafficking in 2004. A credible 2003 study concluded that more than 3,700 children and adolescents—the vast majority of whom lived at home or with close relatives—had been the victims of commercial sexual exploitation in 2002–03.

Within the country victims reportedly were trafficked from rural areas to such urban areas as Santiago, Iquique, and Valparaiso. Law enforcement authorities stated that small numbers of victims were trafficked to neighboring countries (Argentina, Peru, and Bolivia), the United States, Europe, and Asia. Victims reportedly entered the country from Peru, Argentina, Colombia, and Bolivia, although it was difficult to distinguish trafficked persons from economic migrants.

Anecdotal reports suggested that young women were the primary targets for trafficking to other countries. Traffickers reportedly used newspaper advertisements for models and product promoters to lure girls, ages 11 to 17, into prostitution. Law enforcement agencies indicated that traffickers looking for children also targeted economically disadvantaged families, arguing to the parents that they were giving the child an opportunity for a better life. Men from less-affluent rural areas may be recruited into abusive labor situations in deep-sea fishing or ranching operations.

Cross-border trafficking was limited. There was no information available regarding traffickers or the methods they used to recruit or transport victims.

SENAME works with its 75 local offices and with NGOs to ensure that minors involved in possible trafficking situations were not returned to abusive or high-risk situations. The Ministry of Labor performed regular worksite inspections, responded to specific complaints, and maintained offices in each region and throughout the

metropolitan area to identify potentially abusive situations and inform workers of their legal rights.

Many of the government services provided for victims of sexual violence in general, such as safe houses and counseling, are also available to trafficking victims. The government worked closely with other countries to identify and safely return potential trafficking victims.

SENAME, the ministries of government and health, and other government agencies formed the Protect Network, which conducted general public awareness and education campaigns to prevent sexual violence and abuse, including the commercial sexual exploitation of minors. Nearly 80 percent of SENAME's budget supported NGO programs, particularly those that worked with street children. Organizations such as Mother's Centers and RAICES also offered support programs to prevent trafficking.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities, but such persons still suffered some forms of de facto discrimination. The law mandates access to buildings for persons with disabilities, but a Ministry of Housing and Urban Planning study based on a 2002–03 census showed that 70 percent of the buildings in the country designated as public or multi-use failed to meet that standard. An improved public transportation system in Santiago provided wheelchair access on major “trunk” routes. Some local “feeder” routes also provided low-rise buses with access ramps. Subway lines in the Santiago metropolitan area provided limited access for persons with disabilities. Public transport outside of Santiago was problematic.

*Indigenous People.*—The 2002 census recorded approximately 692 thousand self-identified people of indigenous origin (4.6 percent of the total population). The Mapuches, from the south, accounted for approximately 85 percent of this number. There were also small populations of Aymara, Atacamenos, Rapa Nui, and Kawaskhar in other parts of the country.

The law gives indigenous people a voice in decisions affecting their lands, cultures, and traditions and provides for eventual bilingual education in schools with indigenous populations. Approximately one-half the population that identifies itself as indigenous remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. Both internal factors and governmental policies limited the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people also experienced some societal discrimination and reported incidents in which they were attacked and harassed. A 2003 Ministry of Planning survey reported that indigenous people earned 26 percent less than non-indigenous citizens for similar work.

The National Corporation for Indigenous Development, which included directly elected indigenous representatives, advised and directed government programs to assist the economic development of indigenous people.

There were land occupations and other acts of violence by Mapuche groups, and the authorities tried many of those charged with such attacks under antiterrorist legislation (see section 1.c.). A 2004 Human Rights Watch report criticized the government for prejudice in applying the Anti-Terrorist Law to Mapuche activists. A 2003 report by the UN Special Rapporteur for the Human Rights and Fundamental Liberties of Indigenous People described the economic and social marginalization of indigenous communities and the criminalization of indigenous social protest movements by means of the application of the Anti-Terrorist Law. The rapporteur recommended the judicial review of cases affecting Mapuche leaders, but the government did not act on the recommendations.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to form and join unions without prior authorization, and approximately 10 percent of the total work force (estimated at 5.9 million) was unionized in over 16 thousand unions. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Temporary workers—those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining is limited. Intercompany unions were permitted to bargain collectively only if the individual employers agreed to negotiate under such terms. Collective bargaining in the agricultural sector remained dependent on employers agreeing to negotiate.



While employees in the private sector have the right to strike, the government regulated this right, and there were some restrictions. The law permits replacement of striking workers, subject to the payment of a cash penalty that is distributed among the strikers.

Public employees do not enjoy the right to strike, although government teachers, municipal and health workers, and other government employees have gone on strike in the past. The law proscribes employees of 30 companies—largely providers of such essential services as water and electricity—from striking. It stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the private sector. Strikes by agricultural workers during the harvest season were prohibited. Employers must show cause and pay severance benefits if they dismiss striking workers.

Labor laws applied in the duty free zones; there are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. The Labor Code does not specifically prohibit forced or compulsory labor by children, and child prostitution was a problem (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law restricts child labor, but it was a problem in the informal economy. The law provides that children between the ages of 15 and 18 may work with the express permission of their parents or guardians, but they must attend school. Fifteen-year-olds only may perform light work not requiring hard physical labor or constituting a threat to health and childhood development. Additional provisions in the law protect workers under age 18 by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in a day). The minimum age to work in an underground mine is 21; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Ministry of Labor inspectors enforced these regulations, and while compliance was good in the formal economy, many children were employed in the informal economy. During the year the Ministry of Labor recorded 36 cases involving reported violations of child labor laws in the informal economy, 33 of which were under investigation at year's end. There were reports that children were trafficked (see section 5). A 2004 survey by the Ministry of Labor and the International Labor Organization reported that in 2003 approximately 200 thousand children between the ages of 5 and 17 worked; 3 percent of all children and adolescents worked under unacceptable conditions. Among working children, those between the ages of 5 and 14 worked an average of 18.5 hours a week, and adolescents worked an average of 39.5 hours.

In August SENAME released a report indicating that, as of September 2004, there were 1,123 cases of children and adolescents involved in the worst forms of child labor. Of this number, approximately 68 percent were boys; 75 percent were 15 years or older; and 66 percent did not attend school. Thirty-seven percent of the individuals were involved in hazardous activities such as mining; 24 percent in commercial sexual exploitation; 21 percent in dangerous jobs such as working with chemicals or toxins; and 14 percent in illegal activities.

The government devoted adequate resources and oversight to child labor policies. SENAME, in coordination with labor inspectors, has a system for identifying and assisting children in abusive or dangerous situations. The Ministry of Labor convened regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. SENAME operated rehabilitation and reinsertion programs in 75 municipalities for exploited child workers. SENAME also implemented public educational programs to create awareness about child labor and its worst forms.

*e. Acceptable Conditions of Work.*—The minimum wage is set by law and is subject to adjustment annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage at year's end was approximately \$245 a month (127,500 pesos), a 1 percent nominal increase from the previous year. This wage was designed to serve as the starting wage for an unskilled single adult worker entering the labor force and did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations (see section 5). The Labor Directorate, under the Ministry of Labor, was responsible for effectively enforcing minimum wage and other labor laws and regulations.

The law sets the legal workweek at 6 days or 45 hours. The maximum workday length is 10 hours (including 2 hours of overtime pay), but positions such as caretakers and domestic servants are exempt. All workers enjoy at least one 24-hour

rest period during the workweek, except for workers at high altitudes who may exchange a work-free day each week for several consecutive work-free days every two weeks. The law establishes fines for employers who compel workers to work in excess of 10 hours a day or do not provide adequate rest days. The government effectively enforced these standards.

The law establishes occupational safety and health standards, which were administered by the Ministries of Health and Labor and effectively enforced. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove themselves from dangerous situations have their employment protected by law if labor inspectors from the Labor Directorate and occupational safety and health inspectors from the Chilean Safety Association determine conditions that endanger their health or safety exist. Authorities effectively enforced the standards and frequently imposed fines for workplace violations.

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## COLOMBIA

Colombia is a constitutional, multiparty democracy with a population of approximately 44 million. In 2002 independent candidate Alvaro Uribe won the presidency in elections that were considered generally free and fair. The 41-year internal armed conflict continued between the government and Foreign Terrorist Organizations, particularly the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and certain blocs of the United Self-Defense Forces of Colombia (AUC) that were not involved in demobilization negotiations with the government. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted in violation of state policy.

Although serious problems remained, the government's respect for human rights continued to improve. All actors in the internal armed conflict committed human rights violations; the majority of violations were committed by illegal armed groups. There were improvements in certain human rights categories related to the government's concentrated military offensive and ongoing demobilization negotiations with the AUC. The following human rights categories and societal problems were reported:

- unlawful and extrajudicial killings
- insubordinate military collaboration with paramilitary groups
- torture and mistreatment of detainees
- overcrowded, underfunded, insecure prisons
- arbitrary arrest
- high number of pretrial detainees
- pretrial detainees held with convicted prisoners
- impunity
- an inefficient, significantly overburdened judiciary
- harassment and intimidation of journalists
- journalistic self-censorship
- significant internal displacement
- unhygienic conditions at internal displacement camps, with limited access to health care, education, or employment
- corruption
- harassment of human rights groups
- violence against women that was exacerbated by the conflict and displacement, including rape
- child abuse and child prostitution
- trafficking in women and children for the purpose of sexual exploitation
- societal discrimination against women, indigenous persons, and minorities
- illegal child labor

The government took steps to improve the human rights situation. Government statistics noted that killings decreased by 10 percent, terrorist massacres by nearly 4 percent, killings of trade union leaders by 67 percent, and forced displacements

by more than 27 percent. According to authorities, the number of homicides during the year was the lowest in 18 years. Perceptions of corruption improved slightly.

Despite a unilateral cease-fire declared by the AUC in 2002 and ongoing demobilization negotiations with the government, paramilitaries continued to violate the cease-fire, recruit soldiers, and commit human rights abuses. The following violations by paramilitaries were reported during the year: political killings and kidnappings; forced disappearances; torture; interference with personal privacy; forced displacement; suborning and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; attacks against human rights workers, journalists, and labor union members; recruitment and employment of child soldiers; and harassment, intimidation, and killings of teachers and union leaders.

The FARC and ELN committed the following human rights violations: unlawful and political killings; kidnappings; forced disappearances; killings of off-duty members of the public security forces; killings of local officials; massive forced displacements; suborning and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; widespread recruitment of child soldiers; attacks against human rights activists; harassment, intimidation, and killings of teachers and union leaders; and use of female conscripts as sex slaves.

Representatives of the government, the ELN, civil society, and international observers met in Cuba starting on December 17 to explore the possibility of peace talks.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings.

The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), claimed there were at least 298 political and extrajudicial killings, committed by all actors, during the first 6 months of the year. Some NGOs, such as CINEP, attributed all reports of paramilitary human rights violations directly to the government and called paramilitary homicides "extrajudicial killings." The government's Presidential Program for Human Rights reported that 131 persons died in 26 massacres (killings of 4 or more persons as defined by the government) committed by illegal armed groups through June, a 14 percent decrease compared with 2004.

CINEP reported that state security forces were responsible for 94 extrajudicial killings during the first 6 months of the year. For example in January suspected army troops from the 17th Brigade assassinated Pedro Murillo, a 50-year-old unarmed resident of Jiguamiando, Choco Department.

In conformity with the law, incidents cited by CINEP where a complaint was filed were being investigated by military or civilian authorities at year's end. Civilian courts tried a number of military personnel accused of human rights violations (see section 1.e.). Investigations of past killings proceeded, albeit slowly.

Security forces were responsible for unlawful killings.

In February armed assailants killed and dismembered eight civilians, including three children, near the community of San Jose de Apartado. Community members claimed the attack was carried out by the military. Military and government authorities denied army responsibility and blamed the FARC. Community members sporadically cooperated with a few offices involved with the government investigation, demanding the government investigate approximately 150 other killings and disappearances in the community during the past 8 years before they would cooperate fully. Amnesty International (AI) claimed that a March 20 statement by President Uribe, which accused some San Jose de Apartado community leaders of being FARC auxiliaries who sought to obstruct justice, put members of the community at risk of further paramilitary attacks. The community's limited cooperation slowed the investigation by the prosecutor general's Human Rights Unit, which continued at year's end.

In February CINEP stated that members of the army's Battalion 21 Vargas allegedly killed two peasants in Castillo, Meta Department and dressed them in military clothes with weapons to claim to the media that they were members of the FARC's 26th Front.

Also in February CINEP reported that Leonel Guerra Garcia and an unidentified male allegedly were executed by troops from the army's Santander Battalion in

Aguachica, Cesar Department. The battalion claimed the men were members of the AUC.

In March CINEP alleged that troops from the army's Second Division executed three people and injured seven others at a police checkpoint in Cocito Macagua, Arauca Department. The 10 persons were traveling in 2 trucks on their way to a sporting event.

In September the press reported that police shot and killed 21-year-old student Jhonny Silva Aranguren, who had been leaving a peaceful student protest at Valle University. The regional human rights ombudsman's office, the prosecutor general's office, and the police opened investigations into Silva's death.

In April the Supreme Military Tribunal, an appellate court for all service-related crimes, exonerated army members involved in the March 2004 killings of seven policemen and four civilians in Guaitarilla, Narino Department. The prosecutor general's office continued investigating allegations that the soldiers tampered with evidence in the case and that the police and civilians killed were in the area to pick up a shipment of cocaine. The investigator general's office closed its investigation.

On January 4, the prosecutor general's office turned over its investigation into the August 2004 killings of two policemen by members of the army's antikidnapping unit (GAULA) in a "friendly fire" incident in Floridablanca, Santander Department to the 34th Military Penal Court.

Security forces allegedly killed civilians during the internal armed conflict (see section 1.g.).

Landmines were used by both government and non-government actors (see section 1.g.). The government took steps to eliminate the 34 government-controlled minefields in compliance with its Ottawa treaty agreements.

There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from government leaders, including the president and the military high command (see section 1.g.). Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities.

Impunity for military personnel who collaborated with members of paramilitary groups remained a problem (see section 1.g.).

Paramilitaries committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or lacking a strong government presence. Paramilitaries killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities, showed leftist sympathies, or were suspected of collaboration with the FARC (see section 1.g.).

Guerrillas, particularly the FARC, committed unlawful killings. Guerrillas killed journalists, religious leaders, candidates for public office, elected officials and politicians, alleged paramilitary collaborators, and members of the security forces (see section 1.g.).

Other terrorist groups also carried out attacks (see section 1.g.).

*b. Disappearance.*—Forced disappearances, many of them politically motivated, continued to occur. The law specifically defines forced disappearance as a crime. CINEP reported 59 cases of forced disappearance during the first 6 months of the year, an increase of 7 percent compared with the same period in 2004. The UN Working Group on Enforced or Involuntary Disappearances reported in July that there had been at least 1,161 forced disappearances since 1981, 897 of which remained unresolved.

There were no new developments in the investigation of three members of the National Police charged with the April 2004 forced disappearance and subsequent death of Ruben Suarez.

Although the number of kidnappings continued to decline, kidnapping, both for ransom and for political reasons, remained a serious problem. According to the government's Presidential Program for Human Rights, there were 800 kidnappings during the year, a reduction of 44 percent compared with 2004. The Ministry of Defense reported 339 kidnappings for extortion (defined as kidnapping to obtain a benefit, utility, act or omission) through November, a 51 percent decrease compared with the same period in 2004.

GAULAs and other elements of the security forces freed 49 hostages during the first 8 months of the year. However, the NGO Free Country Foundation reported that at least 18 persons died in captivity through August.

Kidnapping continued to be an unambiguous, standing policy for paramilitaries, the FARC, and the ELN. There were numerous reports that guerrillas killed kidnapping victims (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture are tried in civilian, rather than military, courts (see section 1.e.). CINEP asserted that, as of June, security forces were involved in 25 incidents of torture, a 67 percent decrease compared with the first 6 months of 2004. CINEP also reported that during the first 6 months of the year there were 97 victims of torture: 5 victims resulting from abuse of authority and social intolerance by “direct and indirect” state agents; 75 victims resulting from political persecution by direct and indirect state agents; and 17 victims resulting from political persecution or social intolerance where the perpetrator was unknown. Of these cases, 66 victims implicated the armed forces.

For example CINEP reported that in January troops accredited to the army’s Mobile Brigade arbitrarily detained and tortured Ferney Vargas Hernandez in Cartagena de Chaira, Caqueta Department. The troops accused Vargas of being a guerrilla sympathizer.

In February authorities indicted three police officers for torturing and killing Edison Watsein in Medellin, Antioquia Department in 2002.

In October the Inter-American Court of Human Rights found a police officer and former soldier guilty of torturing Wilson Gutierrez Soler in 1994. The court ruled that the government pay approximately \$400 thousand (900 million pesos) to Gutierrez and his family, as well as find the perpetrators of the crime, reform the country’s detention centers, and set up training programs on the investigation and documentation of torture.

CINEP reported that paramilitaries were responsible for at least 25 cases of torture as of September. For example, on January 16, members of a paramilitary group in the municipality of Gigante, Huila Department tortured community leader Israel Guzman.

Also in January paramilitaries of the AUC under control of an individual with the alias “Giovanny” detained, tortured, and sexually abused Yeni Zurley Toro Bonilla, the local coordinator for the NGO Fundepaz in Charco, Narino Department.

In April AUC paramilitaries, apparently with the knowledge and acquiescence of the national police, arbitrarily detained, tortured, and executed 12 minors in Buenaventura, Valle de Cauca Department. The mutilated bodies of the victims were found floating in the ocean in an area known to be used by the AUC for torture and execution. The victims were all relatives of leaders of the Yurumanguí community which was displaced by AUC paramilitaries.

CINEP did not report any cases of torture by guerrillas as of September. The Human Rights Unit of the prosecutor general’s office reported it was investigating 14 cases of torture, of which 4 allegedly involved guerrillas and 10 involved the AUC.

*Prison and Detention Center Conditions.*—The National Prison Institute (INPEC) runs the country’s 139 national prisons and is responsible for inspecting municipal jails. Although part of the Ministry of Interior and Justice, INPEC has an independent budget and administrative decentralization. With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support.

Many of INPEC’s 8,757 prison guards and administrative staff were poorly trained or corrupt. Overcrowding, insecurity, corruption, and an insufficient budget continued to be serious problems. As of March there were more than 69 thousand prisoners held in spaces designed to accommodate fewer than 50 thousand, an overcrowding rate of nearly 40 percent. In 13 institutions overcrowding exceeded 100 percent, and in Bucaramanga’s penitentiary, where more than 2 thousand prisoners lived in a space designed for 664, the rate surpassed 200 percent. INPEC representatives estimated that nine thousand guards would be needed to provide adequate security. The Committee in Solidarity with Political Prisoners (CSPP) noted a decrease in corruption resulting from improved training, increased supervision, and more accountability for prison guards.

Budget problems affected prisons in many ways. At Combita Prison lack of money to pay sanitation fees led to water rationing. During the year INPEC spent approximately \$2 (4,990 pesos) per day on each inmate for food. Private sources continued to supplement many prisoners’ food. CSPP reported that the doctor to patient ratio was as low as 1 to 1,200 in some institutions and noted that INPEC failed to negotiate a nationwide healthcare contract for all its facilities.

Authorities sometimes failed to prevent deadly violence among inmates. INPEC reported that from January to June, there were 20 violent deaths among inmates related to fighting and riots. In March a fight between inmates at Villahermosa jail in Cali resulted in two deaths. During this period there were 56 escapes, including 44 because of security failures and 1 with the aid of outside assistance.

Inmates typically rioted to force changes in administrative policies. From January to June there were 28 riots at various institutions motivated principally by inmates' attempts to force changes in administrative policies, including acts of civil disobedience and hunger strikes motivated by poor water quality, mistreatment by guards, and changes in medical assistance. For example in April inmates at Modelo Prison in Barranquilla, Magdalena Department staged a protest that evolved into a riot. Prisoners protested the poor quality of food and overcrowding. The prison was built to hold 493 inmates but held 781. The regional human rights ombudsman met with the inmates to discuss their situation. The prosecutor general's office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally.

INPEC officials and CSPP agreed that prison violence was on the decline. Enforcement of a law prohibiting the circulation of cash within prisons improved security and decreased bribery. As a result extortion, theft of inmate property, and prostitution decreased. INPEC attributed some of the decrease in violence to heightened professionalism among prison guards.

Pretrial detainees were held with convicted prisoners.

The government permitted independent monitoring of prison conditions by local and international human rights groups, and such monitoring occurred during the year. The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages (see section 1.g.).

*d. Arbitrary Arrest or Detention.*—Although the law prohibits arbitrary arrest and detention, there were allegations that authorities detained citizens arbitrarily.

*Role of the Police and Security Apparatus.*—The National Police are responsible for internal law enforcement and are under the jurisdiction of the Ministry of Defense. Law enforcement duties are shared with the Department of Administrative Security (DAS) and the prosecutor general's Corps of Technical Investigators (CTI). During the year the Human Rights Unit of the prosecutor general's office had issued preventive detention orders for 58 members of the armed forces for human rights violations or paramilitary collaboration. However, impunity continued to be widespread because of a lack of resources for investigations, lack of protection for witnesses and investigators, lack of coordination between government entities, and, in some cases, obstruction of justice. The Ministry of Defense relieved 458 members of the armed forces of duty for inefficiency, unethical conduct, corruption, and reasonable doubt regarding possible violations of human rights. As part of its strategic goal of achieving greater efficiency, the Ministry of Defense increased scrutiny of misuse of authority and resources to uncover cases of corruption.

*Arrest and Detention.*—Police apprehended suspects with warrants issued by prosecutors based on probable cause. However, a warrant is not required to arrest criminals caught in the act or fleeing the scene of a crime. In July the Constitutional Court ruled that authorities require solid proof that a crime had been committed before making arrests without a warrant. Members of the armed forces detained members of illegal armed groups captured in combat but were not authorized to execute arrest warrants.

Law enforcement authorities must promptly inform suspects of the reasons for the arrest and bring suspects before a senior prosecutor within 36 hours of detention. Prosecutors must rule on the legality of detentions within 72 hours. These requirements were enforced in practice. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. In cases of crimes deemed particularly serious, such as homicide or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be released. Habeas corpus is available to address cases of alleged arbitrary detention.

While Individuals accused of lesser or unintentional crimes have access to bail, it generally is not available for serious crimes such as murder, rebellion, or narcotics trafficking. Suspects have the right to prompt access to counsel of their choice, and public defenders from the office of the human rights ombudsman assist indigent defendants.

In April the UN High Commissioner for Refugees (UNHCR) claimed that in its fight against paramilitary groups, the government and the prosecutor general's office continued its systemic practice of arbitrary searches and arrests without sufficient evidence. Prominent human rights NGOs also complained that the government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. CINEP reported that security forces arbitrarily detained 321 persons during the first 6 months of the year. Many of these detentions took place in high conflict areas where the military was involved in active hostilities against terrorist insurgents.

In May the DAS issued arrest warrants for 200 indigenous members of the Paez tribe for collaborating with the FARC to attack the town of Toribio near Popayan, Cauca Department. Of that number authorities arrested 21 persons and later charged 11 of them. A prosecutor in Popayan said the detentions were arbitrary because the information leading to their arrest was provided by paramilitary informants. The prosecutor also stated that the detainees were sincere in their denials.

In August the Regional Indigenous Council of Cauca (CRIC) denounced the detention of 12 indigenous community members in Jambalo, Cauca Department. According to CRIC no one had been informed of the reasons for their detention.

The government and prominent local NGOs frequently disagreed about how to define an "arbitrary" detention. While the government characterized detentions based on compliance with legal formalities, NGOs typically applied other criteria, such as: arrests based on tips from informants about people allegedly linked to guerrilla activities; detentions by members of the security forces without a judicial order; detentions allegedly based on administrative authority; detentions during military operations; large-scale detentions; detentions as a mechanism for political persecution; and detentions of people while they were "exercising their fundamental rights."

The government did not hold political detainees. Paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as pawns in a prisoner exchange (see section 1.g.).

Due to overcrowding convicted individuals in some cases remained at police stations for up to seven months before being transferred to a prison. Under the new accusatory justice system, individuals would be detained at police stations for a maximum of 36 hours before either being released or moved to a permanent detention facility.

According to INPEC, as of December there were 28,148 pretrial detainees (nearly 41 percent of prison inmates) held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult. Trial delays were caused by large numbers of detainees, financial constraints, and staff shortages.

*e. Denial of Fair Public Trial.*—While the law provides for an independent judiciary, the judicial system was overburdened, inefficient, and hindered by the suborning and intimidation of judges, prosecutors, and witnesses. Impunity remained a serious problem. According to the Supreme Council of the Judiciary, a perpetrator was punished in less than 1 percent of crimes. The administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that the civilian judiciary suffered from a backlog of cases to be processed. These backlogs led to large numbers of pretrial detainees (see section 1.d.).

Judicial authorities frequently were subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees and the Corporation Fund of Solidarity with Colombian Judges, 14 judicial branch employees were killed and 53 received threats against their lives. One employee was kidnapped, one was "disappeared," and four left the country in self-imposed exile because of death threats. Some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Witnesses were even more vulnerable to intimidation and many refused to testify.

There were reports that judicial workers were killed during the year. For example during a March investigation into the February San Jose de Apartado massacre, a commission of investigators from the offices of the prosecutor general, the human rights ombudsman, and the inspector general were attacked with mortar shells and machine gun fire, killing the police escort accompanying the commission.

In April suspected paramilitaries killed a police captain and prosecutor general's office investigator Susana Castro. The pair was conducting an investigation in La Hormiga, Putumayo Department.

In September five members of a judicial commission conducting an investigation in Tumaco, Narino Department disappeared after members of the FARC attacked and sunk their river transport boat. The bodies of a prosecutor and a technical investigator on the commission were found three days later.

There were no new developments in the investigations of two cases from 2004 involving judicial workers: the August killing by unknown assailants of former superior court judge and La Guajira Department magistrate Ronaldo David Redondo and the November killing of state attorney Mario Canal.

The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil jurisdiction is the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving nonmilitary

personnel. The Supreme Court of Justice is the highest court within the civil jurisdiction and serves as its final court of appeal.

The administrative jurisdiction handles administrative actions such as decrees and resolutions, which may be challenged in the administrative jurisdiction on constitutional or other grounds. The Council of State is the highest court in the administrative jurisdiction and serves as the final court of appeal for complaints arising from administrative acts.

The Constitutional Court is the sole judicial authority on the constitutionality of laws, presidential decrees, and constitutional reforms. The Constitutional Court also may issue advisory opinions on the constitutionality of bills not yet signed into law and acts within its discretion to review the decisions of lower courts on *tutelas*, or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process.

The special jurisdiction of the civilian justice system consists of the Justices of the Peace program and the indigenous jurisdiction. The CSJ is responsible for the administration and discipline of the civilian justice system.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are coequal supreme judicial bodies that sometimes issued conflicting rulings and frequently disagreed about jurisdictional responsibilities.

The Office of the Prosecutor General is responsible for investigations and prosecutions of criminal offenses. Its Human Rights Unit, which included 15 satellite offices in 7 regional capitals, specialized in investigating human rights crimes. The unit's 48 prosecutors were handling 2,320 cases at year's end.

An internal affairs unit was created in the prosecutor general's office. The prosecutor general's office fired 31 employees for corruption based on the work of this unit.

The office of the inspector general, also known as the public ministry, investigates allegations of misconduct by public employees, including members of the state security forces. The inspector general's office referred all cases of human rights violations received during the year to the human rights unit of the prosecutor general's office.

Through August the office of the inspector general charged 22 members of the armed forces with human rights offenses, which were referred to the prosecutor general for criminal investigation. According to the Ministry of Defense, during the year authorities sentenced several members of the army who were found to be guilty of the 1994 murder of Elcias Munoz and 6 other people in Neiva, Huila Department, to prison terms ranging from between 16 and 40 years. In addition authorities found 7 other members of the army guilty of murders, massacres, and kidnappings and sentenced them to prison terms ranging between 20 and 38 years. For example Lieutenant Sandro Quintero Carreno was found guilty for his role in the 1998 La Cabuya massacre and sentenced to 38 years in prison.

*Trial Procedures.*—On January 1, the country began implementation of a new accusatory style criminal procedure code. The code replaced the "Napoleonic" system whereby a person was detained pending an investigation that involved the formal acceptance of evidence, without an actual trial. The percentage of convictions under the old system was extremely low, and criminal cases typically lasted three to five years.

Under the new code, a prosecutor files a formal charge with a judge and the accused is notified of the charges. Trials are public and juries are used. Defendants have the right to be present and consult with an attorney; the right to confront witnesses; and the right to present evidence. The accused is presumed innocent and has a right of appeal.

The new code was being implemented gradually over a 4-year period. During the year authorities introduced the code in the departments of Armenia, Bogota, Manizales, and Pereira.

The military justice system consists of 44 military courts and the Supreme Military Tribunal, which serves as the court of appeal for all cases tried in military courts. The civilian Supreme Court of Justice serves as a second court of appeal for cases in which sentences of six or more years in prison are imposed.

The military judiciary may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The Military Penal Code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. All serious human rights violations are considered unrelated to military service and are handled by the civilian justice system. The Military Penal Code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, even for service-related acts committed before their retirement. The Military Penal Code denies commanders the power to impose military justice discipline on their subordinates and



extends legal protection to service members who refuse to obey orders to commit human rights abuses.

Military judges preside over courts-martial without juries. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within eight days of a court-martial hearing. Representatives of the civilian inspector general's office are required to be present at courts-martial.

Criminal procedure within the military justice system includes elements of the inquisitorial and accusatorial systems. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on defenders paid by a special military officer's fund.

By year's end authorities began implementing reforms to the military justice system to halt the growth of administrative cases, establish a forensic investigative corps, transition to an accusatorial system, and establish a military defense corps.

In March the prosecutor general's office suspended Corporal Juan De los Rios and Sergeant Oscar Chia for injuring two civilians while shooting at cars in 2001.

In April an inspector general proceeding and the military justice system found members of the army innocent of wrongdoing in a 2004 police-army friendly fire incident in Guaitarilla.

Other military-related cases involving civilians, such as the five civilians killed in April 2004 in Cajamarca and the three unionists killed in Saravena, Arauca in August 2004, remained in civilian criminal courts.

*Political Prisoners.*—The government did not hold political prisoners, although there were 4,721 prisoners accused of rebellion or aiding and abetting insurgency. The government provided the ICRC access to these prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and while the government generally respected these prohibitions in practice, there were exceptions.

The law requires government authorities to obtain a warrant signed by a senior prosecutor to enter a private home without the owner's consent unless the suspect has been caught in hot pursuit. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional requirements and human rights standards.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; such evidence could not be used in court.

Despite being dismissed in November 2004 for illegally wiretapping the telephone lines of more than two thousand citizens and NGOs between 1997 and 2000, Colonel Mauricio Santoyo continued to report to work as the chief of security for President Uribe.

The government continued to use a network of civilian informants to identify terrorist activists and sympathizers. Some national and international human rights groups criticized the network as subject to abuse and a threat to privacy and other civil liberties. The government maintained that the network was voluntary and established to facilitate citizens' right to self-defense.

Although the government does not prohibit membership in most political organizations, membership in private organizations that espoused or carried out acts of violence, such as the AUC, FARC, and ELN, is illegal.

Paramilitaries and guerrillas routinely interfered arbitrarily with the right to privacy. Both groups forcibly entered private homes, monitored private communications, engaged in forced displacement (see section 1.g.) and conscription, and punished family members for alleged wrongdoing. The FARC, which employed large numbers of female combatants, prohibited pregnancies among its troops and, according to military accounts from deserters, executed women who became pregnant.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—The country's 41-year internal armed conflict, involving government forces, a right-wing paramilitary movement, and two leftist insurgent groups, continued. The conflict and the narcotics trafficking that both fueled and prospered from it were the central causes of violations of human rights and international humanitarian law.

The government continued demobilization negotiations with most major blocs of the AUC, but continued to confront militarily any paramilitary group not involved in negotiations. According to government statistics, approximately 13 thousand of the estimated 20 thousand paramilitaries demobilized during the last 2 years. The

Organization of American States continued to verify all stages of demobilization and reincorporation of ex-combatants into society. In July President Uribe signed the Justice and Peace Law, which would provide for the legal processing of demobilized paramilitary combatants. The government issued an implementing decree on December 30 and the law was expected to be implemented in early 2006. Critics, including domestic and international human rights groups, expressed concerns that the law does not take into account sufficiently international standards on the principles of truth, justice, and reparations.

The 12,000-member FARC and the 2,000-member ELN declined in numerical strength during the year in part because of pressure from the military, which has caused significant numbers of guerrilla casualties that, according to the Ministry of Defense, led to approximately 5 thousand guerrilla desertions during the year. In many areas of the country, the two guerrilla groups worked together to combat government forces or paramilitaries.

Members of security forces committed human rights abuses related to the internal armed conflict. CINEP reported that on May 4, air force units bombarded and indiscriminately sprayed machine gun fire in the communities of El Aguila, San Jose, San Jeronimo, and El Queso near Buenaventura, Valle de Cauca Department. At the same time CINEP alleged that marine infantry and army troops entered the areas of San Jeronimo and San Jose. As a result of the incursion one resident died, several were injured, and two were detained. Troops searched houses illegally, stole belongings and money, and broke down several doors to residences.

The Office of the Prosecutor General and the Office of Military Penal Justice initiated an investigation of two soldiers who shot and killed two suspected paramilitaries in June. The families of the victims denied they were paramilitaries, and the investigation continued at year's end.

In November a grenade allegedly from the army's 17th Brigade killed San Jose de Apartado community leader Arlen Salas David during combat between the army and the FARC. The Ministry of Defense and the Office of the Prosecutor General ordered investigations, which were ongoing at year's end.

In June the prosecutor general's office ordered the arrest and detention of six soldiers from the Sixth Brigade involved in the April 2004 killing of a family of five in Cajamarca, Tolima Department, during a military operation against the FARC. The investigation continued at year's end.

In 2004 the Office of the Inspector General brought charges against six members of the Pijaos Antiterrorist Battalion for the death of Norberto Mendoza Reyes, also in Cajamarca. The prosecutor general's office continued to collect evidence to determine what disciplinary action to take in the case. In November the prosecutor general's office closed its preliminary investigation against five members of the security forces in the same case. At year's end the prosecutor general's office was determining against whom to bring charges.

In July the prosecutor general indicted the Commander of the Mobile Battalion Reveis Pizarro, Colonel Luis Francisco Medina, Captain Luis Eduardo Castillo, and Captain Hisnardo Alberto Zambrano, of the army's 18th Brigade, and one civilian for their role in the August 2004 killing of three trade union members near Saravena, Arauca Department. The case continued at year's end. In September the Office of the Inspector General also opened a disciplinary investigation for the case into the actions of a colonel, a second lieutenant, and three soldiers in the Reveis Pizarro Battalion. The investigation continued at year's end.

In September the Human Rights Unit of the prosecutor general's office captured 5 of the 11 army members with outstanding arrest warrants for their involvement in the October 2004 killing of Kankuamo indigenous leader Victor Hugo Maestre Rodriguez. While the military justice system had absolved the men for lack of proof, the Human Rights Unit found ballistic evidence and testimony that implicated them.

There were no new developments and none were expected in the air force investigation of the killing of a 9-year-old girl in November 2004.

On June 29, the Office of the Inspector General brought disciplinary charges against several members of the army in the case of the 2002 deaths of Florentino Castellanos and his son during a military operation near the town of Cantagallo, Bolivar Department. The military penal justice system continued its separate investigation into the case.

In April authorities transferred to Bogota the civilian criminal trial against the helicopter pilot, co-pilot, and navigator for the 1998 air force bombing of the village of Santo Domingo, Arauca Department that killed 17 persons. The proceedings began on August 31 and were ongoing at year's end.

Some members of the public security forces, including enlisted personnel, non-commissioned officers, and senior officials collaborated with or tolerated the activi-

ties of illegal paramilitaries. Evidence suggested tacit nonaggression pacts between local military officers and paramilitary groups existed in certain regions, such as eastern Antioquia, Choco, and Meta Departments, and indicated that members of the security forces actively assisted or sought the assistance of paramilitary groups. Impunity for military personnel who collaborated with members of paramilitary groups remained a problem.

According to AI, the May 2004 paramilitary massacre of 11 peasant farmers in the municipality of Tame, Arauca Department, took place during large-scale military operations in the area. On November 8, the prosecutor general's office issued an arrest warrant for AUC member Victor Manuel Mejia Munera for his role in the massacre.

There were developments in several cases related to military collusion with paramilitaries.

In January the case against retired Rear Admiral Rodrigo Quinones for failing to prevent the 2001 paramilitary massacre of 27 persons in the village of Chengue, Sucre Department was dropped for lack of evidence. The Human Rights Unit of the prosecutor general's office filed an appeal against the decision that subsequently was denied.

On July 17, the prosecutor general's office issued an arrest warrant for Sergeant Sergio Salazar Soto for conspiracy to commit crimes. According to the indictment, he is accused of helping paramilitaries carry out the massacre of 40 persons in Cienaga, Magdalena Department, in 2000.

In April the inspector general's office overturned the July 2004 ruling by the Administrative Tribunal of Cundinamarca Department that the government pay approximately \$22 million (50 billion pesos) to 120 families of victims of the 1999 paramilitary massacre near La Gabarra, Norte de Santander Department. The inspector general's office stated that the Administrative Tribunal's ruling that the police and army failed to prevent the massacre was premature.

In August the defense concluded its case involving retired Brigadier General Jaime Uscategui for his role in the 1997 massacre of at least 27 civilians in Mapiripan, Meta Department. The trial in absentia of former army colonel Hernan Orozco, who testified against Uscategui in an earlier military trial, also continued for his role in the massacre. In February authorities rejected the appeal of retired Colonel Lino Sanchez and upheld a 40-year sentence for his involvement in the massacre. In September the Inter-American Court of Human Rights ruled that the government had violated the rights of the victims of the Mapiripan massacre. In March the government announced it would accept responsibility for the massacre, carry out the court's conditions, and compensate the families of the victims.

In August 2004 the inspector general's office recommended that 8 members of the army be tried criminally for participation in the deaths of 10 persons in Huila Department between 1993 and 1994. In March a court sentenced Colonel Jose Ancizar Hincapie and Captain Enrique Bernardo Camacho to 36 years and 38 years in prison, respectively, for their participation in the massacre.

In September the government asked forgiveness from the families of the members of an investigative commission who were killed by paramilitaries in La Rochela, Santander Department, in 1989. The commission had been sent to investigate the deaths of the 19 merchants in Puerto Boyaca and the government apologized for not providing them sufficient protection.

In 2004 the Inter-American Court of Human Rights ruled the government shared responsibility for the 1987 killings of 19 merchants by paramilitaries in Puerto Boyaca, Boyaca Department. In July the media reported that the government asked forgiveness from the families of the merchants and constructed a monument in the memory of the victims, fulfilling 2 of the 23 conditions of the court's ruling. Many of the families of the victims remained concerned about the slow pace of implementing the court's decision. In addition the Ministry of Foreign Affairs reported that compensation funds were obligated and the form of payment was being finalized at year's end.

Paramilitaries continued to violate the 2002 cease-fire, including violations of international humanitarian law and human rights, which primarily affected innocent civilians. As of November the human rights ombudsman's office had received complaints concerning 1,132 alleged cease-fire violations including reports of massacres, kidnappings, selective killings, displacements, robberies, and the recruitment of children, a 28 percent decrease compared with 2004. On June 30, the Colombian Commission of Jurists (CCJ) claimed paramilitaries had killed at least 2,548 civilians since the 2002 cease-fire declaration. There were also numerous reports that demobilized paramilitaries committed human rights violations.

According to CINEP, paramilitaries were responsible for the deaths of 234 civilians from January through June, a 23 percent decrease from 304 deaths reported

during the same period in 2004. Paramilitaries killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities or showed leftist sympathies. Paramilitaries also killed persons to protect criminal activities.

In January suspected paramilitaries killed Jaime Orlando Reuto Manosalve, the former mayor of Tame, Arauca Department.

The office of the UN High Commissioner for Human Rights (UNHCHR) reported that in January presumed paramilitaries killed eight indigenous people in La Guajira Department.

AI reported that on April 19, the bodies of at least 12 youths were found in Buenaventura, Valle del Cauca Department. Autopsies showed that the bodies had been burnt with acid and the victims were shot in the head. Amongst the youths were Afro-Colombians who reportedly had been threatened repeatedly by paramilitaries.

In May authorities arrested top AUC commander Diego Murillo Bejarano (a.k.a. "Don Berna") and eight members of the AUC bloc "Heroes of Tolova" for the April assassination of Orlando Benitez Palencia, a local official in Cordoba Department, and two others. Authorities initially confined Murillo to house arrest, but moved him to a maximum security facility in Bogota in October.

In August alleged paramilitaries killed Factor Antonio Durango, president of the labor union representing lottery ticket vendors who had denounced the infiltration of lotteries by armed groups. Durango told United Workers Federation (CUT) members that influential paramilitary members in Bello, Antioquia Department, summoned him to a meeting. The union allegations coincided with the findings of the police and other government investigators. *El Tiempo* reported that Durango had received death threats, but at the time of his death he was not receiving protection from the government program.

In October Afro-Colombian leader Orlando Valencia was kidnapped and killed (see section 5).

There were no new developments and none were expected in the investigations into the 2004 killings of the following individuals, reportedly by paramilitaries: Kankuamo indigenous leader Fredy Arias; Medellin community activist Ana Teresa Yance; television announcer Ines Pena; radio journalist Luis Alberto Castano; investigative journalist Claudia Julieta Duque; and local television hosts Milton Delgado and Milton Rosero.

There were reports that paramilitaries continued to commit "social cleansing" killings of prostitutes, drug users, vagrants, and gang members in city neighborhoods they controlled.

Continuing a trend that began in 2002, paramilitaries committed fewer massacres. The government's Presidential Program for Human Rights reported that at least 8 persons died in paramilitary massacres, compared with 18 in 2004. For example, on December 4-5, members of the AUC's Northern Bloc entered the town of Curumani in Cesar Department and killed several residents. Estimates as to how many were killed ranged from 8 to 22 people, and bodies were still being uncovered. The Office of the Prosecutor General opened an investigation that was ongoing at year's end.

In April authorities discovered two mass graves on former AUC ranches in San Onofre, Sucre Department containing 72 bodies. Residents suspected that the paramilitaries linked to local officials committed the killings, which the prosecutor general's office estimated occurred two or three years prior. The investigation continued at year's end.

In May the human rights ombudsman's office recommended that the government investigate the discovery by the NGO Foundation for Progress of 16 mass graves in Norte de Santander Department. The Association for the NGO Promotion of Social Alternatives attributed the deaths to conflicts between paramilitary and guerilla groups during the past five years.

In October the prosecutor general's office found a mass grave with 13 bodies buried in Medellin, Antioquia Department. Members of the families of the deceased and others attributed the killings to paramilitaries belonging to the Cacique Nutibara Bloc, run by "Don Berna."

In February a judge condemned 70 paramilitaries to 40 years in prison and a fine of \$148 thousand (340 million pesos) for the 2001 massacre of at least 20 peasants and indigenous people.

There were no new developments into the following killings committed by paramilitaries in 2004: Carlos Javier Sabogal, former governor of Meta Department; Euser Rondon, former mayor of Meta's El Dorado municipality; former member of congress Nubia Sanchez; and academic and sociologist Alfredo Correa.

In December the Office of the Prosecutor General issued arrest warrants for alleged paramilitaries Gilberto Leon Giraldo Gallego, Orlando Sanchez Gutierrez, and Cesareo de Jesus Hernandez for their participation in the 1996 massacre of 14 people in Segovia, Antioquia Department.

According to CINEP, paramilitaries committed at least 30 forced disappearances during the first 6 months of the year, compared with 48 in 2004. Paramilitaries often abducted persons suspected of collaboration with guerrillas; almost all of these persons were presumed dead. For example in November four armed men wearing camouflage uniforms abducted Jose William Martinez, a lawyer in Riohacha, La Guajira Department and businessman Mauricio Ernesto Vives Lacouture, the brother of Senator Luis Vives Lacouture. Police stated the kidnappers identified themselves as members of the AUC.

The National Foundation for the Defense of Personal Liberty (*Fondelibertad*) reported that paramilitaries were responsible for 16 kidnappings through November, or 5 percent of all kidnappings in which a perpetrator was identified. This constituted an 84 percent reduction compared with the same period in 2004.

Paramilitaries continued to forcibly displace civilians residing along key drug and weapons transit corridors or suspected of harboring sympathies for guerrillas (see section 2.d.).

Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement (see section 2.d.). For example in April authorities arrested Heibe Perea, a leader of a paramilitary group in Choco Department that embargoed the provision of food to four cities bordering the San Juan River, allegedly because the residents were guerrilla collaborators.

According to Human Rights Watch, approximately 20 percent of child soldiers in the country belonged to paramilitary groups.

FARC and ELN guerrillas committed unlawful killings, kidnapping civilians and military personnel, displacing populations, and recruiting child soldiers. They killed journalists, religious leaders, candidates for public office and local elected officials and politicians, alleged paramilitary collaborators, and members of the security forces. CINEP reported that guerrillas were responsible for 120 unlawful killings during the first 6 months of the year. The government's Presidential Program for Human Rights reported that, as of June, the FARC killed at least 14 persons in 3 massacres, although another 109 persons were killed in massacres in which the perpetrators remained unidentified.

In January authorities attributed to the FARC the shooting death of Ever Conda, governor of the indigenous reserve of La Ciria in Miranda, Cauca Department. Also in January the FARC accepted responsibility for the kidnapping and death of Efrén Pascal Nastacuas, governor of the Kuambi Yalasbi indigenous reserve of Ricaurte, Narino Department.

In February three FARC members killed the mayor of Genova, Quindio Department, and his escort. In March two FARC gunmen assassinated Oscar Gonzalez, congressional representative of Caldas Department. In October authorities sentenced Andres Felipe Ramirez Gomez and Diusley Delgado Hernandez to 52½ years and 26 years and 3 months in prison respectively for their roles in the killings.

In April the FARC attacked the town of Toribio, Cauca Department. Combat between the military and the FARC resulted in the deaths of four indigenous people. The attack also resulted in the displacement of thousands of persons (see section 2.d.).

In May several FARC members entered a Puerto Rico town hall council session in Caqueta Department and killed four councilors and the council secretary.

In August a suspected FARC member shot and killed parish priest Jesus Adrian Sanchez in Chaparral, Tolima Department. A taped conversation of a FARC deserter indicated that FARC Eastern Bloc Commander Jorge Briceno Suarez ordered the killing.

On August 15 the ELN attacked a car carrying priests Jesus Emilio Mora and Vicente Rosso Bayona, killing them both. The ELN publicly declared responsibility for the killings on August 19, asking for forgiveness from the families of the victims for having committed an error in attacking that car.

On December 3, former congressman and governor of Huila Department Jaime Lozada Perdomo was killed. Authorities suspected the FARC's Teofilo Forero Front was responsible. Lozada paid ransom in 2004 to the FARC to release his two kidnapped sons, who had been held for three years. Lozada's wife, Representative Gloria Polanco, was kidnapped by the FARC in 2001 and remained a hostage.

In September the DAS captured Fernando Arellan, a FARC member who authorities believed had a role in the 2003 car bombing of the club El Nogal in Bogota, which killed 36 persons. The trial of seven suspects in the case began in November.

In January the Specialized Penal Chamber of Cali sentenced FARC commander John Fredy Jimenez to 36 years' imprisonment, and sentenced hired gunman Alexander de Jesus Zapata Rios to 37 years' imprisonment for the 2002 killing of Isaias Duarte, the Roman Catholic Archbishop of Cali.

In July the prosecutor general's office indicted Gilberto de Jesus Torres, a suspected FARC member, for killing 74 people in a church in Boyaja, Choco Department in 2002.

There were several FARC massacres of public security forces. Reuters reported that, as of September, the FARC had killed 300 members of the public security forces.

In February, subsequent to infiltrating its ranks, the FARC killed 17 navy infantrymen in Icuande, Narino Department. In December authorities brought charges against 5 navy infantrymen involved in the killing. The trial continued at year's end.

In March the FARC attacked a naval convoy escorting a military penal justice commission near Puerto Leguizamo, Putumayo, killing a Navy judge, an officer, two navy escorts, five marine infantrymen, and an army corporal.

On June 25, the FARC attacked a military base in Tetey, Putumayo Department, killing 21 soldiers. On the same day in Bucarasica, Norte de Santander Department, the FARC killed 6 soldiers who were trying to remove a road block between 2 communities.

On August 1, the FARC detonated a bomb that killed police officers riding in a truck as it traveled from Valledupar to Atanquez, Cesar Department.

On September 22, the FARC set off a land mine that destroyed a truck and killed nine police officers on patrol in an area of La Cruz, Narino Department.

Many FARC atrocities were related directly to drug trafficking activities. For example in July members of the FARC exploded charges of dynamite along the road between the towns of Juan y Medio and Riojacha in La Guajira Department, killing nine civilians.

The FARC also killed persons it suspected of collaboration with government authorities or paramilitaries.

There were no new developments into the investigation of suspected FARC leader Jorge Eliecer Martinez "Jeronimo Aljure," accused of killing 3 foreign indigenous rights activists in 1999 and at least 69 others since 1998.

The Security and Democracy Foundation reported that 43 demobilized paramilitaries were killed during the year. For example in February suspected guerrillas shot and killed demobilized paramilitary Wilson Caicedo Hurtado.

In April police arrested six guerrillas connected with an April 22 grenade attack on a daycare center in Buenaventura, Valle de Cauca Department that killed one child. Police suspected the attack was directed against the families of recently demobilized paramilitaries.

According to the Ministry of Defense, guerrillas committed 392 terrorist acts during the first 8 months of the year. For example in February suspected FARC members detonated an explosive device in the inspection station in Puerto Toledo, Meta Department that killed 3 soldiers and 2 civilians, including a 3-year-old child, and injured 18 others.

On April 14, FARC and ELN members invaded the municipality of Toribio, Cauca Department, killing a policeman and subsequently destroying the local church, the cultural center, and four houses around the town's central square.

The FARC and ELN continued to commit numerous kidnappings. *Fondelibertad* reported that guerrillas were responsible for 177 kidnappings through November, or 52 percent of those in which a perpetrator was identified. Of that number the FARC had kidnapped 115 persons, and the ELN kidnapped 62 persons.

In January members of the ELN kidnapped former congressman, Amadeo Rodriguez, in Curmani, Cesar Department.

In February FARC members kidnapped 10 persons from a bus on a route known for drug trafficking in Antioquia Department. The FARC released 6 of them, but 4 remained captive at year's end.

In March FARC members kidnapped six persons in separate incidents in Calima, El Darien, and Silvia, Cauca Department. Investigations into the six cases were ongoing at year's end.

In March suspected FARC guerrillas kidnapped five members of the NGO Inter-ecclesiastical Commission of Justice and Peace in Jiguamiando and Curvardo, Choco Department. They were released unharmed eight days after the kidnapping.

In November the FARC set up a roadblock and stopped a bus traveling near El Retorno, Guaviare Department, kidnapping 22 persons. Fourteen of the hostages were released on the same day.

In September the Office of the Prosecutor General brought charges against FARC members Wilmar Antonio Marin and Jose Roza for the kidnapping and killing of Japanese national Chikao Muramatsu in 2001. The two remained in prison awaiting trial.

Kidnapping for ransom remained a major source of revenue for both the FARC and ELN. The Free Country Foundation reported that as of March there had been 88 kidnappings for ransom, representing approximately 50 percent of all kidnappings. *Fondelibertad* reported 187 kidnappings for ransom during the first 7 months of the year.

In January and February, the FARC released eight hostages kidnapped in December 2004 in San Rafael, Antioquia Department.

At least 58 children were kidnapped during the year. For example on June 14 FARC guerrillas kidnapped 16 indigenous children in Tame, Arauca Department.

The FARC and ELN committed politically motivated kidnappings, which they used to discredit the government or pressure it into a so-called "humanitarian exchange." For example in April members of the FARC kidnapped Carlos Ayala Saavedra, a member of the Delegation of the European Commission, in Cucuta, Norte de Santander Department. Ayala later escaped.

In September members of the ELN delivered the remains of former governor Ancizar Lopez Lopez to the ICRC. Lopez was kidnapped in 2002 and died in captivity.

In April the media reported a FARC announcement that it had killed Ramon Carranza, former DAS director of foreign affairs, who was kidnapped in 2001.

In September the army's 4th Brigade reported that FARC leader Francisco Puerta, (a.k.a. "Argemiro") said that Father Cesar Dario Pena had been killed. The FARC kidnapped Pena in 2001.

The FARC continued to hold political hostages taken in previous years, including former presidential candidate Ingrid Betancourt; former Senator Jorge Eduardo Gechem; former members of congress Orlando Bernal, Luis Eladio Perez, Francisco Giraldo, and Consuelo Gonzalez; Congresswoman Gloria Polanco; former Governor of Meta Department Alan Jara; 12 former regional legislators from Valle del Cauca Department; and at least 4 foreign-born persons. The FARC released several proof-of-life videos during the year, which stirred debate over the possibility of an exchange of hostages for imprisoned FARC members. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the government to cede to FARC demands for an exchange. On December 12, the government agreed to a proposal by an international commission to meet with the FARC in a secure location in Valle Department to discuss an exchange of hostages for prisoners. The FARC had not responded to the international commission's proposal by year's end.

In June the Special Tribunal of Florencia, Caqueta Department, sentenced the FARC leadership in absentia to nearly 40 years in prison for the 2002 kidnapping of Ingrid Betancourt.

According to the vice president's office, between 70 thousand and 100 thousand landmines were deployed nationwide, and 838 persons were injured in at least 1,424 mine explosions, a decrease of 23 percent compared with 2004. Guerrillas were responsible for more than 75 percent of landmine incidents, which killed at least 200 persons during the year. Some 28 percent of the victims were civilians.

Guerrillas failed to respect the injured and medical personnel. Both the FARC and the ELN frequently executed injured prisoners, threatened and harassed doctors and nurses, and killed enemy combatants receiving medical care. In March the FARC kidnapped six Caqueta Institute of Health workers who were vaccinating the population of Florencia, Caqueta Department. The FARC released the workers five days later.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or paramilitary collaborators from strategic zones. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example in April the FARC blockaded the town of Toribio, laying landmines on the road to prevent vehicles from delivering food. In August the FARC blockaded major roads in Putumayo, cutting off the delivery of food and supplies. In October the FARC blockaded the border with Venezuela for 23 days cutting off food supplies to the region.

In November the FARC bombed electrical towers forcing hospital administrators in Buenaventura to postpone all surgeries and send patients home or to other cities for care.

Other terrorist groups also carried out attacks. In May the Guevarist Revolutionary army killed 10 police officers on the road between Quibdo and Pueblo Rico, Risaralda Department. In August 13 members of the Popular Liberation army (EPL)

killed 4 police officers in Monterredondo, Norte de Santander Department. In October the army rescued Arturo Ramirez, a businessman and cattle farmer, who had been kidnapped by the EPL three weeks prior.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Although security forces generally did not subject journalists to harassment, intimidation, or violence, there were exceptions, as well as reports of threats and violence against journalists by corrupt officials. Journalists practiced self-censorship to avoid reprisals by corrupt officials, criminals, and members of illegal armed groups.

In January journalist Antonio Colmenares left the country after receiving threats from unidentified persons. Colmenares reported on economic and governance issues in Cucuta, Norte de Santander Department.

In August the director of a television news show, Daniel Coronell, left the country after receiving repeated death threats. Coronell had accused former senator Carlos Nader of sending him threatening e-mail messages and making threatening phone calls citing the precise location, clothing, and arrival times of Coronell's daughter at her school. Nader admitted that the e-mail messages had been sent from his computer but denied sending them. An investigation was ongoing at year's end.

In September police beat German Palma, a cameraman for the *Noticias Uno* television station, after Palma filmed a story in Bogota. Police also confiscated his camera and damaged the cassette before releasing him.

There were no new developments and none were expected into the investigation of the 2004 killing by unknown persons of journalist Oscar Alberto Polanco, a frequent critic of corrupt local government officials.

In January unidentified gunmen killed Julio Hernando Palacios Sanchez in Cucuta, Norte de Santander Department. Palacios was an investigative reporter on political corruption for a local radio station. An investigation was ongoing at year's end.

In February unidentified gunmen shot and killed photojournalist Hernando Marne Sanchez in Tulua, Valle de Cauca Department. Sanchez had not previously reported being threatened, and local police had not determined a motive by year's end.

In April two unidentified persons stabbed Oscar Acosta Arias to death in Sabaneta, Antioquia Department. Acosta was the director of the local newspaper and a member of the CUT. His newspaper regularly reported on cases of corruption in the region.

In September radio and print journalists Juan Gossain, Julio Sanchez, and Mauricio Vargas said they had received threats due to their coverage of corruption in the elections in Cartagena.

In September unidentified assailants attacked director of the publication *The New Century*, Juan Gabriel Uribe. The case was under investigation at year's end.

During the year members of illegal armed groups intimidated, threatened, kidnapped, and killed journalists. According to information gathered by the Colombia Foundation for Press Freedom, as of October, 1 journalist was killed and at least 52 threatened with death (see section 1.g.).

In May Reporters Without Borders noted that members of the FARC continued to destroy radio and television antennae.

The Ministry of Interior and Justice operated a program to protect journalists that covered 113 media representatives during the year. The ministry also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line.

National and international NGOs reported that local media representatives regularly practiced self-censorship because of threats of violence from illegal armed groups, corrupt officials, and common criminals. At least 5 journalists went into voluntary exile during the first 10 months of the year.

There were no government restrictions on the Internet or academic freedom. However, guerrillas maintained a presence on many university campuses to generate political support for their respective causes and to undermine support for their adversaries through both violent and nonviolent means. Paramilitaries and guerrillas threatened, displaced, and killed academics and their families for political and financial reasons. According to the Ministry of Education, 18 teachers were killed during the year, a decrease of 62 percent compared with 2004.

Threats and harassment caused many professors and students to adopt lower profiles and avoid discussing controversial topics.

The Ministry of Education, in conjunction with the Colombian Federation of Educators (FECODE) and the Presidential Program for Human Rights, operated a pro-



gram for at-risk teachers with 78 regional committees to investigate specific threats against teachers and, in some cases, facilitate relocation with continued employment as educators. Approximately 1,500 threatened educators have been successfully relocated since 2004. According to FECODE, of the 21 cases of forced displacement registered through the end of September, 17 were carried out by paramilitaries. FECODE also reported 26 death threats during the same period and claimed that most of them were made by paramilitaries.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against NGOs, indigenous groups, and labor unions (see section 1.g.).

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

The Roman Catholic Church retained a de facto privileged status. Accession to a 1997 public law agreement with the state is required for non-Roman Catholic religions to minister to their adherents in public institutions and to perform marriages recognized by the state. When deciding whether to grant accession, the government considers a religion's total membership, its degree of popular acceptance within society, and other relevant factors.

The prosecutor general's human rights unit continued its investigation after finding grenades, ammunition, and two-way radios at a small Taoist commune in a mountainous rural region of Santander Department in 2004. During the year three members of the community gave testimony about other alleged illegal activities perpetrated by the community, such as child sexual abuse.

*Societal Abuses and Discrimination.*—Both paramilitaries and guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although generally for political, rather than religious, reasons (see section 1.g.). The Presidential Program for Human Rights reported that illegal armed groups, particularly the ELN, made numerous threats against priests and other religious workers and killed five priests. The Catholic Church reported that four priests were killed during the year.

The Jewish community had an estimated population of 5 to 10 thousand members. There were isolated reports of anti-Semitism, including graffiti painted on the exterior walls of synagogues and anti-Semitic statements in pamphlets published by small xenophobic organizations.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and while the government generally respected them in practice, there were exceptions. Military operations and occupation of certain rural areas was criticized by NGOs as restricting freedom of movement. During the year the Constitutional Court determined that the use of official curfews and safe-conduct passes is unconstitutional, and there no reports of these practices. Paramilitaries and guerrillas continued to establish illegal checkpoints on rural highways, although a larger and more visible government security presence along major highways reduced the number of kidnappings at illegal checkpoints.

The law prohibits forced exile, and the government respected this prohibition in practice. However, many persons from across the socio-economic spectrum went into self-exile because of threats from paramilitaries, guerrillas, or common criminals.

*Internally Displaced Persons (IDPs).*—The internal armed conflict was the major cause of internal displacement. The Social Solidarity Network (RSS), the government's displaced persons service agency, registered 131,716 newly displaced persons, down from 161,921 during 2004. The government attributed the decline to the large state security presence throughout the country and a decrease in paramilitary violence related to the government's negotiations with paramilitary groups. The NGO Consultancy for Human Rights and Displacement (CODHES) estimated that 252,801 persons were displaced during the first 9 months of the year, a 23 percent increase compared with CODHES' estimate for the same period in 2004. The apparent difference was because the government registered new IDPs whose applications for benefits have been accepted, while CODHES estimated new displacements based on information from the media, civil society, and some field work. CODHES also included as displaced persons coca and opium poppy producers who migrated in response to government drug eradication efforts but did not quantify the scope of this problem.

While precise numbers were difficult to obtain, the RSS has registered more than 1.7 million displaced persons since 1995; the UNHCR estimated that more than 2.5 million persons in the country had been displaced at some point during the last 15

years. The FARC and ELN discouraged IDPs from registering with the government through force, intimidation, and disinformation, and guerrilla agents sometimes masqueraded as IDPs to sow doubt and discontent among IDPs. Most IDPs were rural peasants displaced to large cities such as Bogota.

The UNHCR reported that exact numbers of indigenous of Afro-Colombian IDPs were difficult to obtain because of geographic isolation, displacement within traditional territories, and a tendency to seek assistance from other communities rather than the government. The National Indigenous Organization (ONIC) reported that 19,060 indigenous persons were displaced during the year. The government registered 5,880 new indigenous IDPs in the first 10 months of the year. CODHES estimated that during the year, 30 percent of the displaced population was Afro-Colombian. Paramilitaries and guerrillas continued to use forced displacement to gain control over strategic or economically valuable territory, weaken their opponents' base of support, and undermine government control and authority.

In February fighting between FARC and AUC members for control of drug producing and narcotics trafficking zones in Choco Department resulted in the displacement of more than 1,200 persons to Bellavista, according to the UNHCR. In April conflict between guerrillas and paramilitaries in Choco displaced an estimated 1,300 persons. In April the FARC also attacked Toribio, Cauca Department, shelling it and other towns nearby with gas cylinder bombs, resulting in additional forced displacement. The ICRC estimated that more than five thousand were displaced, many of them indigenous people. In September the FARC attacked the village of Samaniego in Narino Department, displacing the entire population of 350 residents to the neighboring town of Barbacoas.

On November 29, the government announced that it would spend \$2 billion in assistance for IDPs from 2005–10 and disbursed \$250 million during the year. Although the government increased its assistance to IDPs, it was seen as insufficient. IDPs continued to live in unhygienic conditions with little access to health care, education, or employment. The government provided assistance for the displaced principally through the RSS, the Colombian Family Welfare Institute (ICBF), and the Ministry of Social Protection. The ICRC provided the greatest amount of emergency (first 90 days) humanitarian assistance to the displaced.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing assistance to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the government, 254 recognized refugees resided in the country, and 17 refugee cases were approved during the year.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections held on the basis of nearly universal suffrage. Active duty members of the armed forces and police may not vote, and civilian public employees, although eligible to vote, are not permitted to participate in partisan politics. Beginning in 2006, legislation passed in December 2004 would allow public sector employees to participate in partisan politics during the four months immediately preceding a national election. The armed forces and police would still be prohibited from participating in the political process.

*Elections and Political Participation.*—In 2002 independent candidate Alvaro Uribe won the presidency in elections that generally were considered free and fair, despite a concerted campaign by the FARC and AUC to disrupt or manipulate the outcome.

Political parties generally operated without government interference. Political reforms approved during the year and scheduled to take effect for the March 2006 elections would raise the vote threshold that parties must meet from 50 thousand voters to 2 percent for either the Senate or the House of Representatives to retain formal status and gain access to government funds. While projections vary, most estimates hold that approximately 7 to 10 of the 60 existing parties would maintain their official status after the March 2006 elections.

The Liberal and Conservative parties have long dominated politics, but the election of President Uribe in 2002 as an independent and the success of third party candidates in regional elections suggested the political arena was widening.

Both paramilitaries and the FARC threatened and killed government officials (see section 1.g.). During the year the FARC killed eight serving and former mayors. According to the National Federation of Councils (FENACÓN), 23 council members were killed as of December 1. In Cauqueta Department, 10 council members and one secretary were assassinated. FENACÓN stated that 70 percent of attacks on council members were attributable to the FARC.

Scores of local officials throughout the country resigned because of threats from the FARC. In February Nelson Mazabuel, the mayor of Purace in Cauca Department resigned because of death threats from the FARC. Seven town councilors and the entire cabinet also resigned in solidarity.

The Ministry of Interior and Justice reported that, due to safety concerns, at least one mayor conducted business from a regional capital via telephone. Councils from Algeciras, Huila Department; Purace, Cauca Department; San Vicente del Caguán, Doncello, and Puerto Rico, Cauqueta Department all met in department capitals during the year. A ministry of interior and justice program to protect vulnerable populations provided protection to 195 mayors, former mayors, and 1,006 council members during the year.

The law requires that women be placed in at least 30 percent of nominated government posts, and that the government report to Congress each year the percentage of women in high-level government positions. There were 11 women in the 102-member Senate, and 20 women in the 166-member House of Representatives, including its president. There were 5 women in the 13-member cabinet and 2 on the 23-member Supreme Court.

There were four indigenous senators, two of whom occupied seats reserved for indigenous persons, and one indigenous member of the House of Representatives. There were no indigenous cabinet members and no indigenous persons on any of the nation's high courts.

There were two Afro-Colombian senators and three Afro-Colombian members of the House of Representatives. There were no Afro-Colombian cabinet ministers and no Afro-Colombians on any of the nation's high courts. In September President Uribe appointed Afro-Colombian Hitler Roseau Chaverra Ovalle as director of the Presidential Program for Colombian Youth.

*Government Corruption and Transparency.*—The country suffered from endemic corruption and graft in both the public and private sectors. Drug trafficking revenues exacerbated corruption, which was as effective a tool as violence for illegal armed groups and large drug trafficking organizations. The NGO Transparency International noted that perceptions of corruption improved slightly during the year.

Government and private sector analysts agreed that a black market of illegal commissions governed incentives for many business transactions.

For example in September the prosecutor general's office opened a case against the governor of Meta Department to investigate irregularities in the awarding of a \$64,700 (149 million pesos) contract for school supplies. In August the inspector general barred Bogota city official German Ruiz Silva from holding public office for five years for fraud in the granting of construction licenses. In October the mayor of Villavicencio and the former minister of health were barred from public service for 10 and 12 years, respectively, for accepting bribes in the awarding of hospital contracts.

In February authorities canceled 9.3 percent of the 2002 Senate election results because the National Electoral Commission detected fraud in the ballots. New elections were held in March.

Corruption related to illegal armed groups was a serious problem. For example in October DAS Director Jorge Noguera and DAS Deputy Director Jose Miguel Narvaez both resigned following allegations that Narvaez had ties (including information sharing) to paramilitaries. In November new DAS Director Andres Penate fired five regional DAS directors suspected of ties to paramilitaries.

In March a judge and jury determined that there was insufficient evidence to convict Cucuta Mayor Ramiro Suarez Corzo of having ties to paramilitary groups because he met with individuals linked to paramilitary groups in 2004.

In June authorities arrested Casanare Department Governor Miguel Angel Perez for allegedly receiving \$217 thousand (500 million pesos) from paramilitary chief "Martin Llanos" to finance his 2003 political campaign. An investigation into the case and the related assassination of paramilitary Luis Martin, who delivered the money, was ongoing at year's end.

In November the prosecutor general's office indicted four people on charges of alien smuggling, conspiracy, filing false declarations, and extortion in the 2004 case involving allegations that staff from the Senate Human Rights Committee sold fabricated death threats used by purchasers to bolster petitions for asylum in foreign countries.

The law provides for public access to government information, and the government generally provided such access in practice. Information relating to defense or national security, or sensitive personal information that could be used to intimidate or embarrass private citizens, was not available to the public. While there are no prohibitive fees to access government information, there were reports that a few low-level officials insisted on bribes to expedite access to information.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to their views, NGOs claimed that high-level criticisms put them at risk for retaliation by illegal armed groups.

Several thousand human rights and civil society NGOs were registered in the country, although most existed only on paper. Local human rights NGOs had far-reaching influence. By sharing information among themselves and disseminating it to international human rights organizations and the media, they raised the country's human rights profile and contributed to significant levels of international attention.

The government and prominent local NGOs differed in their evaluations and analyses of the human rights situation, which led to profound mutual suspicions.

Some NGOs claimed criticisms made by President Uribe put them at risk for retaliation by paramilitaries. In February the Constitutional Court determined that Uribe should avoid statements that put human rights workers at risk. In May the Jose Alvear Restrepo Lawyers' Collective told the president that they believed his verbal attacks on human rights NGOs provoked threats and harassment.

Many domestic NGOs also contended that the government arbitrarily arrested human rights activists, particularly in high conflict areas (see sections 1.d. and 6.a.). The government asserted that some human rights activists actually were engaged in activities that supported terrorism. There were no significant updates regarding the 2004 arrest of Luz Perly Cordoba, secretary general of the agricultural workers union FENSUAGRO and human rights director of the Arauca Peasants Association.

The Ministry of Interior and Justice and the DAS allocated approximately \$25 million (57.5 billion pesos) to its program to protect human rights activists and many other vulnerable populations. The government provided protection to more than 604 human rights activists during the year and bulletproofed 223 additional offices and residences.

According to the CCJ, 38 human rights activists were killed and 3 were forcibly disappeared during the year; 8 of the killings were attributed to paramilitaries (see section 1.g.).

There were several reports of thefts of computers and electronic data from human rights groups. For example in March unidentified thieves entered the headquarters of the NGO Association of Relatives of the Disappeared in Popayan, Cauca Department, and stole a computer hard drive. During the year unidentified burglars entered the headquarters of the Permanent Assembly of Civil Society for Peace and stole hard drives. In December unidentified robbers entered the headquarters of the National Victims Movement, tied up a person, stole their hard drive, \$100 (227 thousand pesos), and other items.

International NGOs criticized the government for some direct violations of human rights, for high levels of impunity, and for its failure to sever links between the military and paramilitaries.

While the Uribe Administration maintained an open dialogue with NGOs and met with them several times during the year, NGOs complained that they had difficulty getting meetings with government officials or getting prompt replies to their correspondence.

In January the Government of Denmark announced it had found no proof that the Danish NGO Association Rebellion's 2004 donation of \$8,500 (18 million pesos) to the FARC was an act that supported international terrorism. However, on December 1, Danish police charged the group's spokesman, Patrick MacManus, with having directly or indirectly transferred approximately \$16 thousand (100 thousand kroner) between the FARC and a Palestinian group. MacManus also was charged with attempting to raise funds for the two groups.

The government cooperated with international governmental organizations. The UNHCR, the International Organization for Migration (IOM), the International Labor Organization (ILO), the UNHCHR, and the ICRC had an active presence in the country and carried out their work without government interference.

In May UNHCHR Louise Arbor visited the country. Arbor stated that while violent crimes continued to decrease the human rights situation remained critical, and concerns continued regarding the lack of progress in specific cases (see sections 1.a. and 1.g.).

In its 2004 human rights report, the UNHCHR again issued 27 recommendations to improve the human rights situation in the country, 24 of which were directed at the government and the independent prosecutor general's office (see section 1.e.). Some of the recommendations had been broadened from previous years. Throughout the year the government met with the UNHCHR, local NGOs, and members of the diplomatic corps to discuss its action plan and the steps it had taken to comply with the recommendations. While acknowledging progress on several recommendations, the UNHCHR and local NGOs reported that the government had not fully complied with most of them by year's end. In November the UNHCHR signed an agreement with the Ministry of Defense to evaluate whether the ministry's implementation of the recommendation regarding human rights training for the security forces was adequate.

The national human rights ombudsman is independent, reports to the inspector general (see section 1.e.), and has responsibility for ensuring the promotion and exercise of human rights. The government generally cooperated with the ombudsman. The ombudsman's Bogota office was the headquarters of a national Early Warning System designed to alert public security forces of impending human rights violations, particularly large-scale massacres. Due to resource constraints the office generally was underfunded and understaffed, limiting its ability to effectively monitor human rights violations or prevent their occurrence.

Regional human rights ombudsmen were under constant threat from illegal armed groups. For example in July La Guajira Department ombudsman Rafael Caro resigned due to death threats by unknown actors. The military had previously uncovered an April 2004 FARC threat against Caro.

The government's Presidential Program for Human Rights and International Humanitarian Law, which operated under the authority of the vice president, coordinates national human rights policy and actions taken by government entities to promote or protect human rights. It is the government's primary interlocutor with domestic and international NGOs and with foreign governments on human rights issues. The program publishes a regular *Human Rights Observer* magazine that provides analyses of major human rights issues and the human rights situation in various regions of the country.

Both the Senate and House of Representatives have human rights committees. The committees serve as fora for discussion of human rights issues but have no authority to draft legislation. As a result they lacked prestige and added little of substance to the national human rights debate.

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

Although the law specifically prohibits discrimination based on race, gender, disability, language, or social status, many of these prohibitions were not enforced in practice.

*Women.*—While the law prohibits domestic violence, including spousal abuse, it remained a serious problem. Judicial authorities may remove an abuser from the household and require therapy or re-education. The law provides prison time if the abuser causes grave harm or is recurrent; however, provisions for fines were not applied. The Institute for Legal Medicine and Forensic Science reported 19,251 cases of domestic violence against women in the first 6 months of the year, but noted that only a small percentage of cases were brought to its attention. The ICBF stated that only 5 percent of domestic violence cases were reported. The law stipulates that the government must provide victims of domestic violence with immediate protection from physical or psychological abuse. ICBF provided safe houses and counseling for victims, but its services were dwarfed by the magnitude of the problem. In addition to fulfilling traditional family counseling functions, ICBF family ombudsmen handled domestic violence cases. The human rights ombudsman's office conducted regional training workshops to promote the application of domestic violence statutes.

Although the law prohibits rape, including spousal rape, it remained a serious problem. The law provides for a maximum sentence of 15 years and a minimum sentence of 8 years for violent sexual assault. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders. The Institute for Legal Medicine and Forensic Science reported 17,802 cases of suspected sex crimes, including rape, but estimated that approximately 25 percent of such crimes actually were reported. Paramilitaries and guerrillas raped, sexually abused, and, in some cases, sexually mutilated women and children for allegedly fraternizing with the enemy, working

as prostitutes, having sexual relations outside of marriage, or violating imposed codes of conduct or restrictions on dress. ICBF provided psychosocial, medical, and legal support to victims of sexual violence.

Adult prostitution is legal in designated "tolerance zones" but enforcement of and restriction to the zones remained difficult. Prostitution was widespread and exacerbated by a poor economy and internal displacement. Sex tourism existed to a limited extent, particularly in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts for sexual tourism. The law prohibits organizing or facilitating sexual tourism and provides penalties of three to eight years' imprisonment. Trafficking in women for sexual exploitation continued to be a problem (see section 5, Trafficking).

There were no laws prohibiting sexual harassment, and it remained a pervasive problem.

Although women enjoy the same legal rights as men, discrimination against women remained a persistent problem. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that generally were incompatible with their education and experience. Female workers in rural areas were affected most by wage discrimination and unemployment. Women also were affected disproportionately by the internal armed conflict, making up 58 percent of internally displaced persons in the country.

The president's advisor for equality of women has primary responsibility for combating discrimination against women and ran a program to help women who were micro business entrepreneurs and heads of families to get favorable lines of credit for their companies. NGOs such as the Popular Women's Organization in Barrancabermeja, Santander Department, and the Women's Path to Peace, in Medellin, Antioquia Department, worked on women's issues, particularly peace initiatives.

*Children.*—The government generally was committed to children's rights and welfare. ICBF oversees all government child protection and welfare programs and also funds nongovernmental programs that benefit children.

Public schooling is provided up to age 18, and is universal, compulsory, and free up to age 15. The National Department of Statistics (DANE) estimated that more than 8 million children between ages 6 and 15 attended school. The government covered the basic costs of primary education, although many families struggled with additional expenses such as matriculation fees after age 15, books, school supplies, and transportation costs that often were prohibitive, particularly for the rural poor.

While the government provided equal medical care to boys and girls, medical facilities were not widely available, especially in rural areas.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 10,170 cases of child abuse during the year. The institute also estimated that 86 percent of the 17,802 reported sex crimes involved sexual abuse of children, the vast majority of whom were under the age of 14.

Children were trafficked for sexual exploitation (see section 5, Trafficking).

Although the law prohibits service in the public security forces before age 18, both paramilitaries and guerrillas forcibly recruited and used children as soldiers. The IOM estimated that since 1999 it assisted 2,426 children in the country who had been members of illegal armed groups. The Ministry of Defense estimated that 20 percent of FARC members were minors and that most guerrilla fighters had joined the FARC ranks as children.

A 2002 UN Children's Fund (UNICEF) study noted that because of limited educational and economic opportunities and a desire for acceptance and camaraderie, an estimated 83 percent of child soldiers volunteered. Nevertheless, many children found membership in guerrilla and paramilitary organizations difficult, and the Ministry of Defense reported an increase in the number of minors deserting illegal armed groups. At least 526 children surrendered to state security forces during the year and were transferred to ICBF, who operated a reinsertion program for former child soldiers. Of these, 176 were former members of the FARC. Unlike in previous years, no child ex-combatants were assisted in their communities.

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

The UNHCR reported that 74 percent of IDPs were women and children (see section 2.d.). Displaced children particularly were vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked from, through, and within the country.

The law provides for prison sentences of between 13 and 23 years and fines of up to 1 thousand times the monthly minimum wage for violators. These penalties may be increased by up to one-third if there are aggravating circumstances, such

as trafficking of children under the age of 14. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. While limited resources hindered prosecutions, between 2000 and December, the prosecutor general's office opened 33 trafficking investigation cases, of which 3 resulted in indictments. Trials were pending at year's end. There was a general perception that government enforcement efforts were poor.

An advisory committee composed of several government agencies prepared information campaigns, promoted information exchange between government entities, and maintained a database to monitor trafficking cases. The prosecutor general's Anti-Trafficking Unit has the lead on combating trafficking. The government cooperated with foreign counterparts on investigations.

The country was a source for trafficking in persons, primarily for sexual purposes. The IOM received 9,760 phone calls, of which 36 were related to trafficking. Destination countries included Spain, Japan, Hong Kong, the United States, and other South American countries. The vast majority of trafficking victims were young women, although children and young men were also at risk. Internal trafficking of women and children from rural to urban areas for sexual exploitation and forced labor remained a serious problem. Victims also transited the country from other South American countries on their way to Europe and the United States.

Many traffickers disclosed the sexual nature of the work they offered but concealed information about working conditions, clientele, freedom of movement, and compensation. Others disguised their intent by portraying themselves as modeling agents, offering marriage brokerage services, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting nonexistent jobs abroad. Most traffickers were well-organized and linked to narcotics or other criminal organizations. The armed conflict created situations of vulnerability for a large number of internal trafficking victims.

The country's diplomatic missions provided legal and social welfare assistance to victims abroad and worked with the IOM to repatriate victims. The IOM strengthened government institutions involved in antitrafficking efforts and assisted trafficking victims. From September 2004 to December, the IOM trained 197 officials on trafficking issues, gave sensitivity training to 1,389 officials, and provided victims with job training and employment opportunities. The IOM also helped victims obtain necessary medical and psychological care. The antitrafficking NGO the Hope Foundation provided educational information, social support, and counseling to trafficking victims. The Rebirth Foundation also provided housing, psychosocial therapy, medical care, and legal assistance to child victims of sexual exploitation through trafficking.

The IOM continued its major antitrafficking public awareness campaign that included placing large posters in airports, foreign consulates, and travel agencies, and running professionally produced public service announcements on television.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these prohibitions. There is no law mandating access to public buildings for persons with disabilities. The law provides persons with physical disabilities access to voting stations. The Presidential Program for Human Rights is responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Approximately 26 percent of the population was of African origin. While Afro-Colombians are entitled to all constitutional rights and protections, they faced significant economic and social discrimination. An estimated 74 percent of Afro-Colombians earned less than minimum wage. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as paramilitaries and guerrillas struggled for control of the department's key drug and weapons smuggling corridors.

In October two men, alleged by witnesses to be known paramilitaries, kidnapped community leader Orlando Valencia in Belen de Bajira, Choco Department. Valencia's body was found 10 days later in a nearby river. An investigation was ongoing at year's end.

*Indigenous People.*—The constitution gives special recognition to the fundamental rights of indigenous people, who comprised approximately 2 percent of the population.

By law indigenous groups have perpetual rights to their ancestral lands. Traditional Indian authority boards operated approximately 866 reservations as municipal entities, with officials selected according to indigenous traditions. However, many indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership. The National Agrarian Reform Institute administered a program to buy back lands declared to belong to indigenous communities.

The law provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws (see section 1.e.). Proceedings in these jurisdictions were subject to manipulation and often rendered punishments that were more lenient than those imposed by regular civilian courts. The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

Indigenous leaders complained about the occasional presence of government security forces on indigenous reservations and asked that the government consult with indigenous authorities prior to taking military action against paramilitaries and guerrillas in such areas. The government stated that for security reasons it could not provide advanced notice of most military operations.

The Ministry of Interior and Justice, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous people. Ministry representatives resided in all regions of the country and worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights.

Despite special legal protections and government assistance programs, indigenous people continued to suffer discrimination and often lived on the margins of society.

Members of indigenous communities continued to be victims of all sides in the internal armed conflict (see section 1.g.). According to the Presidential Program for Human Rights, 48 indigenous people were killed during the year, at least 3 by paramilitaries and 13 by the FARC. The Ministry of Interior and Justice operated a program that provided protection to 85 indigenous leaders during the year.

In March the Office of the Human Rights Ombudsman concluded in its preliminary investigation that several army soldiers were responsible for firing on a school bus carrying 30 indigenous students (seriously injuring 1) on February 14 in Totoro, Cauca Department. The investigation continued at year's end.

The UNHCHR continued to criticize threats and violence against indigenous communities, characterized government investigations of human rights violations against indigenous groups as inadequate, and appealed to the government to do more to protect indigenous people. The ONIC reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted indigenous people's freedom of movement, and blockaded indigenous communities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to organize unions, and the government generally respected this right in practice. The law does not cover members of the armed forces or police. Violence against union members and antiunion discrimination remained obstacles to joining unions and engaging in trade union activities, and the number of unions and union members continued to decline. Approximately 900 thousand workers were members of unions, representing less than 5 percent of the labor force.

The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process; however, the process was slow and sometimes took years. The government can compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents, but this power rarely was used.

In June the ILO noted that the country had a deplorable record for union activism. The ILO urged the government to stop what it described as an "intolerable situation of impunity" and expressed concern that the impunity "contributed to the climate of violence affecting all sectors of the society and the destruction of the trade union movement." The government responded that the freedom of association was protected under the law. In October the ILO Committee of Experts made a technical visit to investigate the issue of right of association and other impediments to organizing. While highlighting government cooperation and progress, the ILO also noted the need for further efforts in the area of impunity for labor-related violence and recommended the establishment of a permanent ILO presence in the country to address these issues.



Labor leaders continued to be targets of attacks by illegal armed groups, primarily for political reasons (see section 1.g.). According to the Ministry of Social Protection (MSP) 13 trade unionists were killed during the year, compared with 21 in 2004. While noting that killings of trade union leaders had declined, the ILO Committee of Experts noted a “persistent climate of violence” in the country, with killings occurring in several departments.

Illegal armed groups disproportionately targeted educators, who represented approximately 33 percent of the organized work force. Labor groups count teachers affiliated with trade unions as a part of the total number of trade unionists killed, whereas the MSP counts them as separate statistics. The MSP reported that 26 teachers affiliated with unions were killed during the year. There had been no convictions in any of these cases by year’s end. The teachers’ federation president stated that the situation was most serious in Toribio, where every teacher was displaced due to threats and violence.

Illegal armed groups killed, kidnapped, and threatened trade union members for political and financial reasons (see section 1.g.).

Not all violence against trade unionists was committed by illegal armed groups. In May unknown perpetrators killed Adan Alberto Pacheco, an electrical worker’s union leader, in Barranquilla, Atlantico Department. According to CUT Vice President Jesus Tovar, at least 29 unionists in this region have been killed since 1993. In September Luciano Enrique Romero Molina, a leader in the food workers union, was found tortured and stabbed to death on the outskirts of Valledupar, Cesar Department. Molina had just returned from a year of exile in Spain, where he had participated in an international program to protect labor leaders receiving death threats. In August Roberto Valiente, president of the Magdalena chapter of the Hotel Association of Colombia, was shot twice by unidentified gunmen as he was leaving a hotel.

Some labor leaders alleged the government attempted to marginalize trade unions by arbitrarily arresting trade union members on suspicion of engaging in terrorist activity. According to the National Labor College, security forces arbitrarily detained trade unionists during the year. For example in November authorities arrested union activist Miguel Fernandez-Orozco on charges of contempt of court, aggravated threats, and false accusations. The charges were based on an anonymous phone tip that accused Fernandez-Orozco of mounting a false security threat. Labor groups expressed concern that prosecutors took advantage of Fernandez-Orozco’s personal problems to imprison him as a means of quelling his union activism. A trial was pending at year’s end.

Union leaders contended that perpetrators of violence against workers operated with virtual impunity. At year’s end authorities had not identified those responsible for the killings of 13 trade unionists and 26 teachers affiliated with unions during the year. Threats, intimidation, or coercion against prosecutors, judicial investigators, and witnesses contributed to impunity in these cases.

In July the prosecutor’s office ordered the arrests of four army officers for the killing of three labor leaders in Arauca in August 2004, and the investigation continued at year’s end (see section 1.g.).

There were no new developments in the 2003 civil suit in a foreign court brought by the National Union for the Mining and Energy Industry (SINTRAMINERGETICA) involving company acquiescence in the killings by paramilitaries of three local union activists.

In September the prosecutor general created a new taskforce dedicated to investigating all human rights violations against union leaders.

While the law prohibits antiunion discrimination, a number of long-standing ILO criticisms of the labor code challenged the scope and effectiveness of the law. The ILO specifically criticized: the requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from their jobs within six months following a strike or dispute; the requirement that candidates for trade union offices belong to the occupation that their unions represent; the prohibition of strikes in a wide range of public services that are not necessarily essential; the government’s power to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike. The government countered that the ILO technical assistance helped to draft the labor code, and that it does not impede labor rights.

*b. The Right to Organize and Bargain Collectively.*—The law provides for workers’ right to organize and bargain collectively, and the government respected this right in the private sector; however, collective bargaining was not implemented fully in the public sector. There were 900 thousand workers nationwide with collective bargaining contracts. However, high unemployment, a large informal economic sector,

traditional antiunion attitudes, and violence against trade union leaders made organizing unions difficult. Weak union organization and a requirement that trade unions represent a majority of a company's workers to negotiate on their behalf limited workers' bargaining power in all sectors. There are no special laws or exemptions from regular labor laws in export processing zones. Labor law applies in the country's 15 free trade zones, and its standards were enforced.

Collective pacts between individual workers and their employers are not subject to collective bargaining. Collective pacts give employers the right to negotiate accords on pay and labor conditions at any time with extemporaneous groups of workers when no union is present or represents less than half of the employees. Labor groups complained that collective pacts were used by employers to complicate and discourage labor organization. In practice when a union presented a collective bargaining proposal, employers offered some workers better conditions and pay in exchange for their leaving the union and temporarily joining the pact, which undermined organized labor's ability to bargain collectively.

The continued growth and prevalence of workers' cooperatives further diminished collective bargaining. Workers' cooperatives are required to register with the superintendent of economic cooperatives, which estimates the number of such cooperatives at 1,500 and the number of associated workers at 150 thousand. Workers' cooperatives are obligated to provide compensation at least equivalent to the minimum wage and the same health and retirement benefits as other workers receive.

Investigators discovered that most cooperatives engaged in subcontracting and, in some cases, that private sector employers had forced workers to form cooperatives and were themselves managing the cooperatives' daily operations. The government has the authority to fine violators but has no recourse to shut down repeat offenders. In practice nominal fines assessed by the government did little to dissuade violators.

The law provides for the right to strike, and workers exercised this right in practice; however, members of the armed forces, police, and persons performing "essential public services" as defined by law are not permitted to strike.

Before staging a legal strike, public sector unions must negotiate directly with management and accept mediation if they cannot reach an agreement. The law prohibits the use of strikebreakers. The law that prohibits public employees from striking often was overlooked. By law public employees must accept binding arbitration if mediation fails.

During the year the National Oil Workers Union (USO) tried unsuccessfully to reopen negotiations with Ecopetrol (the state-owned oil company) concerning their failed labor contract negotiations in 2004. In December the Arbitration Tribunal stated that a new negotiation proposal could be submitted after December 8. The USO presented its arguments for a new negotiation to the MSP and Ecopetrol, but Ecopetrol refused to negotiate, claiming the Arbitration Tribunal's order in 2004 was final and could not be appealed. Negotiations continued at year's end.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred.

Paramilitaries and guerrillas practiced forced conscription (see section 5). There were some reports that guerrillas and paramilitaries used forced labor, including child labor, in areas outside government control (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While there are laws to protect children from exploitation in the workplace, child labor remained a significant problem, particularly in the informal sector. The Colombian Family Welfare Institute reported that at least 2.5 million children worked in the country. Only one in five children was estimated to be working legally.

The Minor's Code categorically prohibits the employment of children under 12 and severely limits work between the ages of 12 and 13. The constitution allows the employment of children between the ages of 14 and 17 in a limited number of occupations. The labor code allows the granting of work permits to children under 18 in certain occupations. The Minor's Code also requires exceptional conditions and the express authorization of the Ministry of Labor to employ children between 12 and 17.

The legal minimum age for work was inconsistent with completing a basic education, and only 38 percent of working children attended school. All child workers are prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Although children are prohibited from working in a number of specific occupations, including mining and construction, in practice these prohibitions largely were ignored.

According to a recent report released by the Colombian Institute for Children and Families, 300 thousand children worked in illegal mining operations. According to DANE, children also worked as coca pickers or in other aspects of the illegal drug trade. Children are also engaged in illegal conscripted labor as child soldiers.

Although there were no reports of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see sections 1.f. and 5), prostitutes (see section 5), or coca pickers. The Minor's Code provides for fines of up to 40 minimum monthly salaries for violations of child labor laws. A violation deemed to endanger a child's life or threaten moral values may be punished by temporary or permanent closure of the responsible establishment.

The MSP is responsible for enforcing child labor laws in the formal sector (which covered approximately 20 percent of the child labor force) through periodic inspections. Resources were inadequate for effective enforcement.

The National Committee for the Eradication of Child Labor, which includes officials from several government agencies and civil society groups, conducted training on legislation and enforcement and operated an information system on child labor to better measure and understand the problem. The committee was instrumental in presenting child labor legislation in December that would prohibit children from performing 104 types of work (including domestic employees, garbage collectors, and messengers) considered unsuitable for those under 18; the legislation was subsequently passed.

UNICEF continued a program to encourage children to leave the workforce and return to school.

*e. Acceptable Conditions of Work.*—The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is set by tripartite negotiations among representatives of business, organized labor, and the government, was approximately \$167 (380 thousand pesos). The national minimum wage did not provide a decent standard of living for a worker and family.

The labor code provides for a regular workweek of 48 hours and a minimum rest period of 8 hours within the week. The code stipulates that workers are entitled to receive premium compensation for additional hours worked over the regular workweek of 48 hours and for work performed on Sundays. Compulsory overtime is permitted only in cases where it is considered essential for the functioning of the company and where the work could not be required routinely.

The law provides comprehensive protection for workers' occupational safety and health, which the MSP enforced through periodic inspections. However, a lack of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. Workers in the informal sector sometimes suffered physical or sexual abuse.

The law provides workers with the right to remove themselves from a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Non-union workers, particularly those in the agricultural sector, often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses.

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## COSTA RICA

Costa Rica, a constitutional democracy with a population of approximately 4.2 million, is governed by a president and unicameral Legislative Assembly directly elected in free multiparty elections every four years. In 2002 Abel Pacheco de la Espriella, of the Social Christian Unity Party (PUSC), won elections that generally were considered free and fair. While civilian authorities generally maintained effective control of the security forces, some members of the security forces committed isolated human rights abuses.

The government generally respected the human rights of its citizens and improved its human rights performance in several areas. The following human rights problems were reported:

- overcrowding and inadequate medical services at prisons
- substantial judicial process delays, particularly in pretrial detention and in civil and labor cases
- antiquated libel laws and excessive penalties for violations
- domestic violence against women and children
- child prostitution

- child labor

The following improvements in the human rights situation occurred: increased prison capacity reduced system-wide overcrowding to 4 percent; government agents were held accountable for human rights violations; and the government initiated comprehensive efforts to eradicate child labor and reduce the commercial sexual exploitation of children.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, some members of the security forces committed abuses. Any statement obtained through violence is invalid, and the government investigated, prosecuted, and punished agents responsible for confirmed cases of abuse.

In August the Criminal Court of the First Judicial Circuit of the Atlantic Zone found four police officers guilty of abuse of authority for beating a suspect who resisted arrest for public disturbance. Each officer received a 3-year suspended sentence. All four defendants appealed the judgment, and the appeals were pending at year's end.

In May a former police officer stood trial for allegedly beating a robbery suspect in an attempt to force a confession following an arrest in 2003. At year's end the criminal trial was still ongoing. The officer resigned his post in March, which nullified all administrative actions against him and ended the internal investigation.

The ombudsman's office lodged and recorded complaints of police misconduct (see section 4). As of August the ombudsman's office had received 47 reports of police abuse of authority or misconduct. Of these, 34 reports remained under investigation, 1 was determined to be legitimate, and 12 were found to be without merit.

On November 10, an individual was attacked by two guard dogs on private premises he had unlawfully entered during the early morning hours. Seven public security officers witnessed the attack but did not intervene for nearly an hour while the dogs mauled the victim. The officers alleged they could not shoot the dogs for fear of injuring the victim, who was found to be Nicaraguan. An investigation into the officers' actions proceeded at year's end.

*Prison and Detention Center Conditions.*—Although the government worked to improve prison conditions during the year, overcrowding, poor sanitation, lack of health services, and violence among prisoners remained problems in some prison facilities. The ombudsman's office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons, and drug abuse was common.

While penitentiary overcrowding remained a problem, recent expansions at several prison facilities reduced the prison population rate at year's end to its capacity level. The major expansion of prison capacity occurred in the maximum security and youth facilities at the La Reforma prison complex. Crowding remained a problem in the San Sebastian and San Carlos prisons, which were 22 and 23 percent over capacity, respectively. At year's end the Social Adaptation Division of the Ministry of Justice reported 12,819 persons under its supervision, including 7,459 jailed prisoners, 812 persons required to spend nights and weekends in jail, 3,999 persons in supervised work programs requiring no jail time, and 549 juveniles.

Conditions at La Reforma prison improved with the expansion and renovation of the young adult facility, designed to house 72 young adult inmates between the ages of 18 and 21.

San Sebastian, where most prisoners in pretrial detention were held, continued to be overcrowded and unsanitary. Because of increases in the number of persons held in preventive detention arising out of court backlogs, the San Sebastian prison was not able to handle adequately the growing inmate population. Medical care at most facilities generally was adequate for routine illnesses and injuries but was inadequate for complex medical issues, such as HIV/AIDS.

While prisoners generally were separated by sex and by level of security (minimum, medium, and maximum), overcrowding sometimes prevented proper separation. As of June the women's prison held 7 percent more inmates than its intended capacity.

Due to overcrowding at the San Sebastian complex, some pretrial detainees were held with convicted prisoners in long-term detention facilities throughout the country.

The government permitted prison visits by international and local independent human rights observers, including representatives from the Office of the Ombudsman. Human rights observers were allowed to speak with prisoners and to prison employees in confidence and without the presence of prison staff or other third parties.

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

*Role of the Police and Security Apparatus.*—The Ministry of Public Security oversees the Public Force, which comprises the general preventive police force, as well as the Drug Control Police, Border Police, and Coast Guard. Traffic control and law enforcement are administered by the Ministry of Public Works and Transportation. Police forces generally were regarded as effective, and nongovernmental organizations (NGOs) did not perceive corruption to be a serious problem. Each ministry had an internal disciplinary unit to investigate charges of abuse and corruption against its officers. All new police recruits received human rights awareness training as part of their basic training course.

*Arrest and Detention.*—The law requires issuance of judicial warrants before making arrests, except where probable cause is evident to the arresting officer. The law entitles a detainee to a judicial determination of the legality of the detention during arraignment before a judge within 24 hours of arrest. The law provides for the right to bail, prompt access to an attorney, and prompt access to family members, and the authorities generally observed these rights in practice. Indigents are provided a public attorney at government expense and access to family members, in practice even those with sufficient personal funds were able to use the services of a public defender. With judicial authorization, the authorities are able to hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days.

On September 4, a police officer was convicted of unlawful arrest and received a 3-year sentence for the 2001 detention of a citizen of a foreign country, who had been arrested in a case of mistaken identity. Two additional officers and an attorney were acquitted of the charges.

There were no reports of political detainees.

A criminal court may hold suspects in pretrial detention for periods of up to one year, and the court of appeals may extend this period to two years in especially complex cases. The law requires that suspects in pretrial detention have their cases reviewed every three months by the court to determine the appropriateness of continued detention. According to the Ministry of Justice, in December there were 1,602 persons in pretrial detention, representing 12 percent of the prison population.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision in practice. The legal system faced many challenges, including significant delays in the adjudication of civil disputes and a still growing workload.

The judicial branch of government includes the upper and lower courts, the Judicial Investigative Police, the Office of the Prosecutor, the Office of the Public Defender, forensic laboratories, and the morgue. The lower courts include the courts of first instance and the circuit courts. The Supreme Court is the highest court, with 22 justices known as magistrates. The Legislative Assembly elects those magistrates for 8-year terms, which are renewed automatically unless two-thirds of the assembly opposes such renewal.

*Trial Procedures.*—The law provides for the right to a fair trial and an independent judiciary generally enforced this right.

All trials, except those that include juvenile defendants, are public. A trial is presided over by a single judge or by a three-judge panel depending on the potential penalties arising from the charges. Trials that involve victims or witnesses who are minors are closed during that portion of the trial where the minor is called to testify. There are no jury trials. Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent. The law provides for detainee and attorney access to government-held evidence, and defendants can question witnesses against them and present witnesses on their behalf. Defendants enjoy a presumption of innocence and, if convicted, have the right of appeal. By year's end the government had not enacted amendments to the law as directed by a 2004 Inter-American Court of Human Rights ruling, that stemmed from a denial of due process case from 1999.

*Political Prisoners.*—There were no reports of political prisoners, although former presidents Rafael Angel Calderon and Miguel Angel Rodriguez, who were released in October after nearly one year, asserted that their arrests and preventive detentions were politically motivated. In September Calderon asked the Inter-American Commission on Human Rights to review his case. In December he told reporters that the NGO International Society for Human Rights had filed an *amicus curiae* brief which concluded that his detention was politically motivated. The Inter-American Commission on Human Rights' review was still pending at year's end.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution prohibits such practices, and the government generally respected these prohibitions in practice. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in investigations of certain crimes such as genocide, homicide, kidnapping, terrorism, narcotics trafficking, production of pornography, trafficking in persons, and the trafficking of persons for their organs. However, legal guidelines on the use of wiretaps are so restrictive that the use of wiretaps was rare.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title harmed the real property interests of many who believed they held legitimate title to land. Landowners throughout the country suffered occasional squatter invasions; sometimes they received government assistance to evict squatters forcibly from private land.

Officials worked to relocate more than 2 thousand of the 4,500 families living in the squatter development of La Carpio, which was constructed in 1994 pursuant to illegal invasion of government-owned land. In July the Office of the Ombudsman requested governmental action to organize and title the land where feasible and to resettle those residents living on lots too small to be plotted or in dangerous areas. The Office of the Ombudsman reported that the project would take several years to complete. At year's end the government had begun to survey and delineate land plots and to identify the most dangerous areas.

Legal hearings continued in the Bambuzal squatters case, which began in 2004 when a large group of squatters attempted to resettle on private property from which they had been forcibly removed. While many of the families accepted rights to lots near the disputed land, a small group of squatters continued to protest in front of the second circuit courthouse in San Jose. In February a court decision overturned the usurpation conviction of 17 squatters. The landowner and the prosecutor's office subsequently appealed the acquittal to the Supreme Court, which ordered a new trial.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press. Journalists and media company owners continued to criticize outdated legislation that imposed criminal penalties, including lengthy jail sentences, instead of civil fines, for common press infractions and argued that such legislation promoted self-censorship.

Under current law, reporters are not required to reveal the identity of a source in any civil or criminal trial if the source has requested confidentiality. Reporters are allowed to defend themselves against libel charges by claiming that they were merely repeating a story published by foreign media. Libel convictions are punishable with fines or jail time.

The government had not yet modified the law to comply with a 2004 Inter-American Court of Human Rights ruling that the government should reform within a reasonable amount of time the press freedom laws on media prosecution. The ruling arose out of a 1999 conviction of a journalist for defamation.

A 2002 informal prohibition made by President Pacheco, on the placement of paid advertising by government institutions, remained in effect. The law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Media managers reported that it was difficult to comply with provisions of this law. The law outlines a series of "insult laws" that establish criminal penalties of up to three years in prison for those convicted of insulting the honor or decorum of a public official. The law also identifies defamation, libel, slander, and calumny as offenses against a person's honor that can carry criminal penalties. The Inter-American Press Association cited as problems President Pacheco's informal ban on government advertising in *La Nacion* newspaper and stalling of attempts to adopt legislative reforms to press laws.

At year's end the March 2004 separate convictions of 2 journalists with sentences of 30 days and 10 days, respectively, were overturned on appeal. The February 2004

conviction of a third journalist for publishing a story accusing a public employee of misuse of public funds remained on appeal.

At year's end six defendants who were accused during the year of killing and/or illicit association in relation to the 2003 killing of journalist Ivannia Mora awaited trial. The trial was scheduled to begin in May 2006.

In December the trial of 10 defendants arrested in 2004 for the 2001 killing of radio host Parmenio Medina began.

The Commission on Control and Rating of Public Performances rates films and has the authority to restrict or prohibit their showing if it is determined that the films are pornographic or violent in nature, or incite crime or vice. The commission has similar powers over television programs, radio programs, and stage plays. In addition the commission regulates the sale and distribution of written material deemed pornographic, enforcing specific packaging and display regulations. A tribunal reviews appeals of the commission's actions.

On October 31, the Inter-American Commission on Human Rights agreed to review allegations of censorship brought against the rating commission by the owner of a local tabloid magazine that the government closed in May 2004 after the owner printed semi-nude photographs in a 2003 issue without first submitting that issue for the rating commission's review.

In an unrelated case decided in February, *La Nacion* newspaper was found not to have violated the country's antipornography laws in 1999, when it published explicit still images within the context of a movie review.

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

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Although Roman Catholic religious instruction is provided in the public schools, it is not mandatory and students may obtain exemptions from the instruction with the permission of their parents. The school director, the student's parents, and the student's teacher must agree on an alternative course of instruction for the exempted student during the instruction time. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. In April the public National University alleged that the Catholic Church Conference certification requirement was discriminatory and requested that the Ministry of Public Education reform the teachers' law to allow teachers certified in religious instruction by an entity other than the Roman Catholic Church to teach religion in the public school system.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination including anti-Semitic acts during the year. There was a small Jewish population.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the government generally respected them in practice. The law requires that adults carry national identification cards at all times. Persons who fail to produce such documents at security checkpoints may be detained until their identity and immigration status are verified.

The constitution prohibits forced internal or external exile, and it was not used in practice.

*Protection of Refugees.*—The law and a series of executive decrees provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum, and cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Refugee Department, in the General Directorate of Migration, is in charge of refugee status determination. The law requires refugee applications to be adjudicated within a month of receipt.

There were allegations that immigration and other border officials abused refugees.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and by secret ballot every four years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. Presidents may seek reelection after sitting out two 4-year terms, and assembly members may seek reelection after at least one term out of office.

*Elections and Political Participation.*—In the 2002 national elections, Abel Pacheco of the PUSC won the presidency in elections that generally were considered free and fair.

The Supreme Electoral Tribunal requires that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The first vice president (who was also the minister of the presidency), the minister of child and adolescent issues, the minister of health, the minister of justice, and the minister of women's affairs were women. There were 20 women in the 57-seat Legislative Assembly, including 9 legislative committee chairwomen.

Indigenous people did not in practice play significant roles in politics or government except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. There were no indigenous members in the Legislative Assembly.

There were three black members in the assembly. There were no minority members in the cabinet.

*Government Corruption and Transparency.*—Transparency International noted an increase in perceived corruption compared with 2004. There continued to be allegations of corruption against the executive branch. In October two former presidents, Rafael Angel Calderon and Miguel Angel Rodriguez, were released from house arrest after each spent one year in custody but they remained under investigation for separate and unrelated cases of suspected corruption (see section 1.e). Former President Jose Maria Figueres Olsen remained in Switzerland despite a standing request by the Legislative Assembly for his return to answer questions regarding kickbacks received by his former company. In May the press criticized President Pacheco for receiving gifts from foreign business persons, including those seeking tourism development rights from the government.

During the year two legislative committees charged with investigating allegations of campaign finance irregularities in the 2002 elections ended their investigations with no conclusive results. The committees' reviews revealed that, although the alleged actions, if proven, would violate existing law, the law contained no penalties for the proscribed actions.

There were no new developments reported in the 2004 corruption investigation of the former president and board of directors of the Costa Rican Social Security Fund.

The law provides for public access to government information, and the government generally respected this right. Government institutions published reports that detailed the year's activities. On May 5, the ombudsman's office launched a web page dedicated to further enhancing transparency by improving citizen's access to public information.

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

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

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

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced these prohibitions.

*Women.*—The government continued to identify domestic violence against women and children as a serious and growing societal problem. The law prohibits domestic violence and provides measures for the protection of domestic violence victims. Criminal penalties range from 10 to 100 days in prison for aggravated threats and up to 35 years in prison for aggravated homicide. Between January and December, the autonomous National Institute for Women (INAMU) provided assistance to 6,967 women, including counseling and lodging for battered women in INAMU shelters. During that same period, INAMU reported that 35 women and girls were



killed in incidents of domestic violence, compared with 20 victims during 2004. INAMU also maintained a domestic abuse hotline. During the year authorities arrested more than 9,300 suspects for domestic violence, representing a 24 percent increase compared with 2004.

The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes for the San Jose area investigated 1,118 cases.

The Law Against Domestic Violence established a number of victims-assistance mechanisms including basic training for new police personnel on handling domestic violence cases, that required public hospitals to report cases of domestic violence against women, and denied perpetrators possession of the family home in favor of the victim. The public prosecutor, police, and ombudsman had offices dedicated to this problem.

The law defines various types of rape and provides sanctions dependent upon a victim's age and other factors such as an assailant's use of violence or position of influence over the victim. The law provides for sanctions from 10 to 18 years in prison for rape and 2 to 10 years in prison for statutory rape. The judiciary effectively enforced rape law and provided due process for both victim and defendant. According to the INAMU, the rape law applies in the same manner to spousal rape, although spousal rape cases are much more difficult to prove. INAMU reported that there have been only three convictions for spousal rape.

Through September 2004 judicial authorities reported approximately 5,708 cases of sex crimes. Approximately 17 percent of the prison population was serving sentences as a result of convictions related to sex crimes. Adolescent girls between 14 and 16 years of age were particularly vulnerable, and constituted the largest single age group of rape victims. During the year, 91 rape cases were reported by 14 to 16 year old girls, out of 424 cases reported to OIJ Police. Authorities acknowledged that many known rape cases were not investigated due to reluctance by the victim or family of the victim to press charges against perpetrators.

Prostitution is legal for persons over the age of 18, and was practiced openly throughout the country, particularly in areas with heavy concentrations of tourists. The penal code prohibits individuals from promoting or facilitating the prostitution of individuals of either sex, regardless of the individual's age, and the penalty is increased if the victim is under the age of 18. There are no specific laws against sex tourism, which was growing; however, law enforcement agencies initiated investigations under existing legislation that prohibits the promotion of prostitution. The government and several advocacy groups also initiated awareness campaigns publicizing the dangers of sex tourism and its association with child sexual exploitation (see section 5, Trafficking in Persons).

The law prohibits sexual harassment in the workplace and educational institutions, and the Ministry of Labor generally enforced this prohibition. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution. Through July the ombudsman's office received 40 complaints of sexual harassment in the workplace.

The Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The government maintained offices for gender issues in most ministries and parastatal organizations. The Ministry of Labor was responsible for investigating allegations of gender discrimination. INAMU implemented programs that promoted gender equality and publicized the rights of women.

According to a UN Development Program report issued during the year, women over age 15 represented 38 percent of the labor force. Approximately 80 percent worked in the service sector, 15 percent in industry, and 4 percent in agriculture. Women occupied 45 percent of professional and technical positions and 30 percent of legislative, senior official, and managerial positions. The law requires that women and men receive equal pay for equal work. The estimated earned income for women was approximately 78 percent of the earned income for men.

*Children.*—The government was committed to children's rights and welfare through systems of public education and medical care. Primary education is compulsory, free, and universal. The law requires six years of primary and three years of secondary education for all children, and attendance is required until age 15.

The Ministry of Education reported that the estimated primary school dropout rate was 3.3 percent, and the secondary school dropout rate was 11.6 percent; these figures were based on actual registration per school year and did not reflect students who did not register at the beginning of the school year. In contrast, the UN Children's Fund reported that approximately 40 percent of primary school students never entered secondary school, and that 35 percent of secondary school students dropped out before graduation.

The law provides equal access to education and health care services to all minors, regardless of gender or legal residency status.

In recent years the autonomous National Institute for Children (PANI) increased public awareness of abuse of children, which remained a problem. From January 1 to June 30, PANI assisted 6,562 children and adolescents, including 2,860 cases of physical abuse, 2,171 cases of sexual abuse, 986 cases of psychological abuse, and 545 cases of substance abuse. Traditional attitudes and the inclination to treat sexual and psychological abuse as misdemeanors at times hampered legal proceedings against those who committed crimes against children.

In September a court found the government liable for damages in the 1992 rape of a 12-year-old student by her teacher, that resulted in the minor's pregnancy, and awarded the victim \$110 thousand (53 million colones).

The government, security officials, and child advocacy organizations acknowledged that the commercial sexual exploitation of children remained serious problems (see section 5, Trafficking). PANI estimated that three thousand children suffered from commercial sexual exploitation and street children in the urban areas of San Jose, Limon, and Puntarenas were particularly at risk. During the year PANI reported that it provided assistance to minors in 120 separate cases of commercial sexual exploitation.

The law provides special occupational protection for minors and establishes a minimum working age of 15 years. Child labor was a problem mainly in the informal sector of the economy (see section 6.d.).

*Trafficking in Persons.*—Although the law prohibits the trafficking of women and minors for the purpose of prostitution or forced labor, there is no comprehensive legislation to address all forms of trafficking. The lack of a comprehensive antitrafficking law inhibited the government's ability to prosecute and convict traffickers, and prosecutors relied on several criminal statutes to bring traffickers to justice. There were reports that persons were trafficked to, from, and within the country, most often for commercial sexual exploitation.

The law provides for sentences of between 2 and 10 years' imprisonment for anyone who engages in sex with a minor and between 4 and 10 years' imprisonment for managing or promoting child prostitution. The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes for the San Jose Area raided 7 brothels as part of the investigation of commercial sexual exploitation cases, and conducted 15 raids related to cases of sexual exploitation of minors. The raids resulted in the arrest of 12 suspects, who remained in preventive detention awaiting trial, and 6 suspects with other preventive measures.

During the year the Judicial Investigative Police created a new investigative unit dedicated solely to trafficking in persons. By year's end the government secured 10 convictions among the different prosecutors' offices for trafficking-related offenses. Hundreds of investigations into the commercial sexual exploitation of children were initiated, but few resulted in successful prosecution as a result of governmental inefficiency and inability to protect witnesses. Minimal coordination among government offices responsible for trafficking-related offenses also frustrated enforcement efforts.

Government agencies responsible for combating trafficking and child sexual exploitation included the special prosecutor on domestic violence and sex crimes, the judicial investigative police, the national institute for children, the foreign ministry, the labor ministry, the public security ministry, and the tourism ministry.

Cases of trafficking involved persons from Cuba, Guatemala, Peru, Ecuador, Colombia, the Dominican Republic, Panama, Nicaragua, the Philippines, China, Russia, and countries of Eastern Europe. While evidence suggested that most trafficked persons remained in the country, some transited to Canada, Mexico, and the United States. Some female citizens, generally from impoverished backgrounds, also were trafficked to Canada, Mexico, and the United States. Traffickers often recruited victims with a promise of secure employment and good pay.

There were reports of corruption among immigration officials involving trafficking in persons along the country's borders, but the Immigration Directorate reported that no disciplinary actions were taken.

A governmental Inter-Ministerial Group on Trafficking made efforts to raise awareness of trafficking issues and sexual exploitation of children and to encourage law enforcement and prevention measures, particularly at the local level; however, these efforts were hampered by a lack of resources.

While there were limited formal mechanisms specifically designed to aid trafficked victims, the government offered indirect assistance, such as stay-in-school programs, to child victims of trafficking. Foreign victims were not granted temporary or permanent residence status and often were deported immediately to their country of origin.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, health care access, or provision of other state services, and there were no reports of individual, intentional discrimination against persons with disabilities in education or in the provision of other state services. There were two reports of discrimination in rural areas involving access to rehabilitative health care. There were no reports of employment discrimination, but the ombudsman's office reported to the Legislative Assembly that, due to poor facilities access and entrenched business practices, unreported discrimination occurred.

Although a 1996 law mandates access to buildings for persons with disabilities and establishes a 10-year deadline for the government to make necessary installations and upgrades, the government did not enforce this provision in practice, and many buildings remained inaccessible to persons with disabilities. Public transportation services were almost entirely inaccessible to wheelchair-bound passengers.

The Ministry of Education operated a program for persons with disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. The ministry reported that 14,033 special education students were registered in the school system during the year, and there were 537 special education centers to assist special education students and students with disabilities. In addition 1,040 primary and secondary schools had programs to provide some support to students with disabilities.

*National/Racial/Ethnic Minorities.*—The country's 100 thousand blacks, who mostly resided in Limon Province, enjoyed full rights of citizenship, including the protection of laws against racial discrimination. There were no reports with the ombudsman's office of racial discrimination against blacks. Approximately 15 percent of the permanent population was foreign-born. There were sporadic reports of discrimination, usually directed against Nicaraguans, but there were no government-endorsed patterns of discrimination. Undocumented illegal immigrants were sometimes denied discretionary or long-term medical care because they were not participants in the national health care insurance program.

*Indigenous People.*—Indigenous people, comprising nearly 64 thousand persons among 8 ethnic groups, accounted for approximately 1 percent of the population. While indigenous persons were not subject to official discrimination, social and health network gaps diminished their quality of life. Approximately 73 percent of the indigenous population lived in traditional communities on 24 reserves, which, because of their remote locations, often lacked access to schools, health care, electricity, and potable water. Few government health care facilities had been established in indigenous reserves. The law nominally protects reserve land as the collective, nontransferable property of the indigenous communities. Some indigenous landowners, however, sold their land to pay off debts, sometimes illegally to non-indigenous people. The ombudsman had a unit dedicated to investigating violations of the rights of indigenous people and sought to return reserve land to indigenous groups.

At year's end an unknown number of nonindigenous property owners continued to hold title to land on reserves legally set aside for indigenous occupation. The law requires that the government purchase all pre-existing land titles within the reserves in order to secure exclusive use and ownership rights for the indigenous populations.

*Other Societal Abuses and Discrimination.*—Although there are no laws prohibiting discrimination against persons based on sexual orientation, discrimination based on HIV/AIDS in health care, employment, and education was prohibited by law and by presidential decree. The ombudsman's office received no reports of complaints of such discrimination during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law specifies the right of workers to join unions of their choosing without prior authorization, and workers exercised this right in practice. The law also provides for the right not to join a union and to leave a union and accordingly prohibits any action that might infringe that right. The Ministry of Labor reported that approximately 9 percent of workers were unionized.

Some trade union leaders contended that the existence of worker "solidarity associations" in some enterprises displaced unions and discouraged collective bargaining. The law prohibits these non-dues-collecting associations from representing workers in collective bargaining negotiations or in any other way that assumes the functions of or inhibits the formation of trade unions. Solidarity associations offered membership services, including credit union programs, matching-fund savings accounts, and

low-interest loans. Approximately 330 thousand workers were members of solidarity associations, 95 percent of whom worked in the private sector.

Although the law provides protection from dismissal for union organizers and members during union formation, including reinstating workers fired for union activities, enforcement was lax, and employers often failed to comply with this provision in practice. In its annual report, the International Labor Organization Committee of Experts identified as a problem "slow and ineffectual procedures for penalties and redress in the event of antiunion acts." In addition the International Confederation of Free Trade Unions Annual Survey states that there is no legal mechanism to oblige an employer to comply with a court order to reinstate a fired worker. Workers who are denied reinstatement under a court decision must file a new action with the labor court.

During the year the Center for Alternative Resolution of Labor Disputes handled 4,200 cases, some 37 percent of which resulted in an agreement between the parties. Year-end statistics indicated a relatively high settlement rate when both employer and employee attended the hearing; with both parties present, two-thirds of the cases reached successful resolution.

To reduce backlogs caused by the lengthy labor dispute resolution process, the Ministry of Labor trained arbitrators and educated workers and unions on labor rights, and the Supreme Court undertook a large-scale labor reform project.

*b. The Right to Organize and Bargain Collectively.*—Workers exercised the constitutional right to organize and the right to voluntary collective bargaining. Foreign nationals are expressly prohibited from exercising direction or authority in unions. There are no special laws or exemptions from regular labor laws in export processing zones.

The law requires employers to initiate the bargaining process with a trade union if at least 34 percent of the workforce requests collective bargaining, and the government enforced this law in practice.

Although private sector unions had the legal right to engage in collective bargaining with employers, direct bargaining arrangements between employers and unorganized workers occurred more commonly. As of October the Ministry of Labor reported 19 new collective agreements and 7 new direct agreements.

The law provides for the right to strike, and workers exercised this right in practice; however, unions complained of burdensome administrative requirements in order for a strike to be legal. The law requires that at least 60 percent of the workers in the enterprise support strike action. Pursuant to a constitutional court ruling, restrictions on the right to strike apply only to essential services that concern the national economy or public health.

In October the Water and Sewage Institute staged a strike to demand higher wages. Workers complained that they were the lowest paid of all government entities, with many employees earning less than the federally mandated minimum wage. Administrative functions, including connecting or disconnecting residential water service, were disrupted during the strike. On November 10, the national labor tribunal declared the strike illegal and the employees accepted a 9.8 percent salary increase.

On July 11, a group of municipal trash collectors went on strike to demand higher salaries and renewal of school tuition benefits. After labor court judges declared the strike illegal, the mayor fired 67 striking workers on August 19. That same day the workers filed an injunction with the Constitutional Chamber of the Supreme Court, and 12 of them launched a hunger strike. On August 23, the court ordered the workers temporarily reinstated pending a review of the case, which was pending at year's end.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides special occupational protection for minors and establishes a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of 6 hours daily and 36 hours weekly with special permission from PANI. The law prohibits night work and overtime for minors. Certain activities considered to be unhealthy or hazardous typically require a minimum age of 18. In addition minors are entitled to facilities allowing them to attend educational establishments through school arrangements and timetables adapted to their interests and employment conditions, and to participate in apprenticeship training programs.

The Ministry of Labor, in cooperation with PANI, generally enforced these regulations effectively through inspections in the formal sector; the regulations were not

effectively enforced in the informal labor sector as a result of inadequate resource allocations by the government.

Child labor continued to be a problem in formal and informal agricultural operations and in informal activities such as domestic work and family-run enterprises. Child prostitution and other types of child sexual exploitation remained serious problems (see section 5).

The Ministry of Labor maintained an Office for the Eradication of Child Labor (OATIA), which was responsible for coordinating government efforts and programs targeted at child labor. In June OATIA presented its second national plan of action for the eradication of child labor, designed to eliminate child labor within five years, and which contains built-in financing that requires each participating government agency to include program funding in its annual budget.

During the year the government continued to provide small loans and economic aid to families with at-risk children and scholarships for poor families to cover the indirect costs of attending school. In July the Ministry of Education initiated a new child labor education campaign to remove children from work and return them to school. OATIA reported that, through October, it had registered 850 children working under the legal age. Working in coordination with the Ministry of Education, the Ministry of Labor removed these children from the work environment and placed them in schools.

*e. Acceptable Conditions of Work.*—The law provides for a minimum wage, which is set by the National Wage Council. Monthly minimum wages for the private sector ranged from approximately \$150 (72,586 colones) for domestic employees to approximately \$588 (285,635 colones) for university graduates. The Ministry of Labor effectively enforced minimum wages in the San Jose area, but was not generally effective in enforcing the wage laws in rural areas, particularly those where large numbers of migrants were employed. The national minimum wage did not provide a decent standard of living for a worker and family.

The constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Workers generally may work a maximum of 48 hours weekly. While there is no statutory prohibition against compulsory overtime, the Labor Code stipulates that the workday may not exceed 12 hours under any circumstances. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers did not receive overtime pay if they worked voluntarily beyond their normal hours. Hourly work regulations generally were enforced in the formal labor market in San Jose but were enforced poorly in rural areas and in the informal sector.

While the ministries of labor and health shared responsibility for drafting and enforcing occupational health and safety standards, they did not enforce these standards effectively as a result of inadequate allocation of government resources. The law requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the government to inspect workplaces and to fine employers for violations. Most firms subject to the law established such committees, but they either did not use the committees or did not turn them into effective instruments for improving workplace conditions. Resource constraints continued to hinder the Inspection Directorate's ability to carry out its inspection mandate. Workers who consider a work condition to be unhealthy or unsafe must make a written request for protection from the Ministry of Labor or the Ministry of Health in order to remove themselves from the condition without jeopardizing their continued employment.

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## CUBA

Cuba, with a population of 11 million, is a totalitarian state led by a president, Fidel Castro, whose regime controls all aspects of life through the Communist Party (CP) and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. Although civilian authorities generally maintained effective control of the security forces, the Ministry of Interior is the principal instrument of state security and control, and officers of the Revolutionary Armed Forces, which are led by the president's brother, have occupied most key positions in the ministry during the past 15 years.

The government's human rights record remained poor, and the government continued to commit numerous, serious abuses. At least 333 Cuban political prisoners and detainees were held at year's end. The following human rights problems were reported:

- denial of citizens' rights to change their government
- beatings and abuse of detainees and prisoners, including human rights activists, carried out with impunity
- transfers of mentally healthy prisoners to psychiatric facilities for political reasons
- frequent harassment of political opponents by government-recruited mobs
- extremely harsh and life-threatening prison conditions, including denial of medical care
- arbitrary arrest and detention of human rights advocates and members of independent professional organizations
- denial of fair trial, particularly to political prisoners
- interference with privacy, including pervasive monitoring of private communications
- severe limitations on freedom of speech and press
- denial of peaceful assembly and association
- restrictions on freedom of movement, including selective denial of exit permits to thousands of citizens
- refusal to recognize domestic human rights groups or to permit them to function legally
- domestic violence, underage prostitution, and sex tourism
- discrimination against persons of African descent
- severe restrictions on worker rights, including the right to form independent unions

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings. However, the Cuba Archive human rights project noted in November that foul play was likely in many prison deaths recorded as “heart attacks.”

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits abusive treatment of detainees and prisoners; however, members of the security forces sometimes beat and otherwise abused human rights advocates, detainees, and prisoners, particularly political prisoners, and did so with impunity.

Authorities often subjected detainees and prisoners to repeated, vigorous interrogations designed to coerce them into signing incriminating statements or to force their collaboration with authorities. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in isolation or punishment cells.

On February 19, a “reeducation specialist” forced political prisoner Fidel Garcia Roldan into a cell, pushed him against the wall, then hit him repeatedly in the head.

On March 2, Juan Carlos Herrera Acosta, a prisoner at Kilo 8 prison in Camaguey, was handcuffed and dragged more than 120 feet across the floor of the prison; he suffered severe cuts and abrasions. As of that date, Herrera Acosta had not been exposed to sunlight for more than one year.

Throughout March and April, authorities subjected political prisoner Jose Daniel Ferrer Garcia to deafeningly loud music and noise from a speaker placed by the guards at the entrance to his cell from the early morning until late each night; as of April 28, he had been denied exposure to sunlight for seven months.

In August a prison guard beat dissident Arnaldo Ramos Lauzurique. On September 26, a guard at Camaguey's Kilo 8 prison punched and broke the nose of political prisoner Lamberto Hernandez Plana, following his refusal to stand for a lineup of inmates. The government knowingly sent mentally healthy prisoners to psychiatric hospitals or the psychiatric ward of a prison hospital. For most of the year, Dr. Luis Milan Fernandez, a political prisoner with no known mental ailment, was held at the psychiatric ward of the Boniato prison in Santiago. Dr. Milan was forced to share a cell with prisoners suffering from severe mental illness. In February the government regained custody of academic Orlando Vallin Diaz, who had escaped from a psychiatric hospital months earlier. Vallin had been sent to the hospital after serving approximately three months in prison for alleged drug trafficking; family

members denied that Vallin had ever been involved with drugs or shown any sign of mental illness.

The government continued to subject persons who disagreed with it to "acts of repudiation." At government instigation members of state-controlled mass organizations, fellow workers, or neighbors of victims staged public protests against those who dissented from the government's policies by shouting obscenities and causing damage to the homes and property of those targeted. Physical attacks on victims or their family members sometimes occurred. Police and State Security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

*Prison and Detention Center Conditions.*—Prison conditions continued to be harsh and life threatening. Conditions in detention facilities also were harsh. Prison authorities frequently beat, neglected, isolated, and denied medical treatment to detainees and prisoners, particularly those convicted of political crimes or those who persisted in expressing their views. Authorities also often denied family visitation, adequate nutrition, exposure to natural light, pay for work, and the right to petition the prison director.

Prisoners sometimes were held in "punishment cells," which usually were located in the basement of a prison, with continuous semi-dark conditions, no available water, and only a hole for a toilet. Reading materials, including Bibles, were not allowed. Prison officials regularly denied prisoners other rights, such as the right to correspondence. Some prison directors routinely denied religious workers access to detainees and prisoners.

In November the Cuban Commission for Human Rights and National Reconciliation denounced the worsening health of dozens of political prisoners, stating that more prisoners suffered from dangerous diseases due to the "generally subhuman and degrading conditions" in which they were held.

Power and water cuts were frequent at prisons, and inmates often suffered from extreme heat. At Havana's Combinado Del Este prison, disturbances were reported after allegations surfaced that prison authorities sold gas for personal profit.

Victor Rolando Arroyo, an independent journalist serving a 26-year prison term, described his cell in Guantanamo provincial prison as a space approximately 11 feet by 34 feet, where 34 people slept on three-tiered bunks. The cell was dimly lit; there were no cleaning supplies; and water, which flowed sporadically, had a disagreeable color, odor, and taste.

The government regularly failed to provide adequate nutrition and medical attention; according to Human Rights Watch (HRW), prisoners typically lose weight during incarceration. Pedro Pablo Pulido Ortega stated that he and other prisoners at Guamajal prison in Santa Clara received only cornmeal for lunch and one small portion of potatoes for dinner.

Prisoner of conscience Blas Giraldo Reyes Rodrigues experienced medical problems for two months before authorities on May 3 transferred him to an infirmary where tests indicated he had been suffering from an infection.

On August 2, Bertha Antunez Pernet reported that authorities at Kilo 7 prison in Camaguey Province retaliated against her brother, Jorge Luis Garcia Perez, who had criticized prison conditions, by denying him medication for a respiratory condition.

There were occasional reports of prisoners dying as a result of violence by fellow prisoners, but no statistics were available. On April 4, Freddy Ibanez Blanco died from burns suffered in a prison uprising at Havana's Combinado del Este prison.

There were also occasional reports of suicide attempts by prisoners, but no statistics were available. In November political prisoner Mario Enrique Mayo twice attempted suicide.

Human rights activists alleged that prison authorities used "thugs" within the general prison population to harass political prisoners.

Sexual assault occurred at men's prisons, but the government did not disclose such incidents. In July an inmate at Aquadores prison beat and raped Orlando Rodriguez Salazar, who was denied medical attention except for a sedative.

Although officials sought to separate the juvenile and adult prisoners, juveniles sometimes were held in the same facilities as adults. Although pretrial detainees generally were held separately from convicted prisoners, some long-term detainees, including political detainees, were held with convicted prisoners.

The government did not permit independent monitoring of prison conditions by international or national human rights groups. The government has denied prison visits by the International Committee of the Red Cross since 1989.

*d. Arbitrary Arrest or Detention.*—Although prohibited by law, arbitrary arrest and detention were abuses effectively and commonly used by the government to harass opponents.

*Role of the Police and Security Apparatus.*—The Ministry of the Interior exercises control over police and internal security forces. The National Revolutionary Police (PNR) is the primary law enforcement organization and generally was effective in investigating common crimes. Specialized units of the Ministry of the Interior are responsible for monitoring, infiltrating, and suppressing opposition political groups. The PNR plays a supporting role by carrying out house searches and providing interrogation facilities for State Security agents. There were reports in both the independent and official press of corruption within the security forces.

Members of the security forces acted with impunity in committing numerous, serious human rights abuses. While the PNR ethics code and Interior Ministry regulations ban police brutality, the government did not announce any investigations into police misconduct during the year.

*Arrest and Detention.*—The police have broad detention powers, which they may exercise without a warrant. Under the law, police can detain without a warrant not only persons caught in the act, but someone merely accused of a crime against state security. The law requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest; it also requires authorities to provide suspects with access to a lawyer within 7 days of arrest.

In practice the law was not respected. At least 39 political detainees were held at year's end without formal charges. Among them was Maximo Pradera Valdez, arrested in 2001 and still held without formal charge at year's end. On May 13, authorities in Havana detained six human rights activists, including Rene Montes de Oca Martija and Lazaro Alonso Roman, in connection with a peaceful demonstration; at year's end several of the activists remained in detention, and no formal charges had been brought. On June 22, police in Havana took into detention nine human rights activists, including Rene Gomez Manzano, Julio Cesar Lopez Rodriguez, and Jesus Alberto Reyes Sanchez, in connection with a peaceful demonstration; at year's end all remained in detention, and none had been charged.

Bail was available, although typically not in cases involving antigovernment activity. Time in detention before trial counted toward time served if convicted. The government denied prisoners and detainees prompt access to family members.

The law provides that all legally recognized civil liberties may be denied to anyone who actively opposes the decision of the people to build socialism. The authorities routinely invoked this authority to deny due process to persons detained on purported state security grounds. The authorities routinely engaged in arbitrary arrest and detention of human rights advocates. Police frequently lacked warrants when carrying out arrests or issued warrants themselves at the time of arrest. Authorities sometimes employed false charges of common crimes to arrest political opponents and often did not inform detainees of the charges against them. The authorities continued to detain human rights activists and independent journalists for short periods, including house arrest, often to prevent them from attending or participating in events related to human rights issues (see sections 2.a. and 2.b.).

The Penal Code includes the concept of "potential dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threatened prosecution under this provision.

During the year authorities arrested at least 53 persons for democratic or political activity; at year's end all remained in custody, and 18 of them were still awaiting trial. At year's end there were at least 39 political detainees awaiting trial, of whom 18 were detained during the year.

On April 27, the government convicted the remaining 23 citizens who had been detained since 2002 for breaking into the Mexican Embassy and requesting asylum. The individuals were sentenced to prison terms ranging from 4 to 18 years.

On July 12, the government arrested several members of the Las Marianas opposition group as they prepared to undertake a 6-day hunger strike to compel the government to release non-violent dissidents from prison.

The government did not permit access to political detainees by international humanitarian organizations.

Authorities sometimes detained independent journalists to question them about contacts with foreigners or to prevent them from covering sensitive issues or criticizing the government (see section 2.a.). After months of detention, the government often released activists without charges.



*e. Denial of Fair Public Trial.*—While the constitution provides for independent courts, it explicitly subordinates them to the National Assembly of People's Power (ANPP) and the Council of State. The ANPP and its lower level counterparts choose all judges. Thus, in practice the CP influenced the courts.

Civilian courts existed at the municipal, provincial, and appellate levels. Panels composed of professionally certified and lay judges presided over them.

*Trial Procedures.*—The courts undermined the right to a fair trial by restricting the right to a defense and often failed to observe the due process rights nominally available to defendants. While most trials were public, trials were closed when there were alleged violations of state security. Almost all cases were tried in less than one day; there were no jury trials. The law provides the accused with the right to an attorney and, except in cases involving state security, the right to consult an attorney in a timely manner, but many defendants met their attorney only minutes before the start of their trial.

Moreover, the government's control over members of the lawyers' collectives compromised their ability to represent clients, especially those accused of state security crimes.

Criteria for presenting evidence, especially in cases involving human rights advocates, were arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, was the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer. A defendant's right to present witnesses was only arbitrarily observed.

Prosecutors may introduce testimony from a member of the neighborhood-based Committee for the Defense of the Revolution (CDR) about the revolutionary background of a defendant, which may contribute to a longer or shorter sentence. The law presumes the innocence of the accused, but the authorities often ignored this right in practice. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases involving maximum prison terms or the death penalty. Appeals in capital cases are automatic. The Council of State ultimately must affirm capital punishment.

On August 9, independent journalist Lamasiel Gutierrez was tried for "dangerousness" and sentenced to seven months of house arrest. During her trial, 25 uniformed personnel filled the courtroom. She was denied the right to speak on her own behalf during the proceedings, and was not allowed to consult with counsel.

On July 22, Rene Gomez Manzano, one of the leaders of the Assembly for the Promotion of Civil Society, was arrested and jailed indefinitely. The government refused the request of Manzano, who is an attorney by profession, to represent himself and insisted that he accept another attorney.

Military tribunals, which are governed by a special law, assumed jurisdiction for certain "counterrevolutionary" cases. The military tribunals tried civilians if a member of the military was involved with civilians in a crime. In these tribunals, there was a right to appeal, access to counsel, and the charges were made known to the defendant.

*Political Prisoners.*—The Cuban Commission for Human Rights stated that the government held, in addition to political detainees, at least 294 political prisoners at year's end; 45 of them were convicted of terrorism and 33 of "dangerousness." The authorities incarcerated persons for such offenses as disrespect of the head of state (Fermin Scull Zulueta, three years), disrespect and scorn of patriotic symbols (Antonio Velazquez Hernandez, two years), public disorder (Orlando Zapata Tamayo, three years), and attempt to leave the country illegally (Osolanis San Miguel Rodriguez, three years). Other charges included disseminating enemy propaganda, illicit association, clandestine printing, or the broad charge of rebellion, which often was brought against advocates of peaceful democratic change. Between two thousand and five thousand teenagers were serving sentences for the crime of "potential dangerousness, with sentences ranging up to five years' imprisonment.

At year's end 60 of the 75 peaceful human rights activists, journalists, and opposition political figures arrested and convicted in 2003, mostly on charges of violating national security and aiding a foreign power, remained in prison.

Political prisoners often were held at facilities hundreds of miles from their families, making family visits more difficult. Prison conditions prompted some political prisoners to carry out lengthy hunger strikes. On October 5, dissidents Victor Arroyo and Felix Navarro ended their hunger strikes at the penal ward of a Guantánamo hospital prison after 24 days and 18 days, respectively. They were protesting actions of a "re-educator" who had seriously injured Arroyo's leg. Prison staff and inmates (at the instigation of prison staff) often targeted political prisoners for abuse (see section 1.c.). Political prisoners, such as independent journalist Fabio Prieto Llorente and Diosdado Gonzales Marrero, were held among the general pris-

on population. Conversely, political prisoner Adolfo Fernandez, although held with the general population, reported that he was prevented from interacting with other prisoners in the cafeteria and forced to eat all meals alone in his cell. Some political prisoners preferred to stay in their cells to avoid contact with prison guards. In November, following three hunger strikes, political prisoner and attorney Mario Enrique Mayo, serving a 20-year sentence in Holguin, carved "innocent" and "liberty" into his body. The government released Mayo on December 1.

The government continued to deny human rights organizations and the International Committee of the Red Cross access to political prisoners. Authorities denied visits to families of political prisoners while they were held in "punishment cells." Prisoners in punishment cells had no access to lawyers.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—While the constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled organizations, such as the CDRs, remained pervasive. The government employed physical and electronic surveillance against nonviolent political opponents. The state assumed the right to interfere in the lives of citizens, even those who did not actively oppose the government and its practices. The authorities employed a wide range of social controls to discover and discourage nonconformity.

The Ministry of Interior employed a system of informants and the CDR block committees to monitor and control public opinion. While less capable than in the past, CDRs continued to report on suspicious activity, including: conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the government and the revolution.

Between January and March, CDR members harassed Havana resident Noemi Arias Noe and her husband and teenage son following their unsuccessful attempt to flee the country. CDR members left a threatening sign on their door and pounded on the family's front door; Arias said neighbors broke down a common door to intimidate the family. Arias and her husband received more than 10 police citations related to their attempted migration and were obliged to appear before the local police chief twice monthly.

Authorities occasionally threatened parents with the loss of custody of their children for taking part in "counterrevolutionary" activities. On August 19, a police officer visited the Havana home of Carla Vismari Santa Leon, a pro-democracy activist, and warned her mother that Carla and her activist husband could lose custody of their 2-year-old son unless they halted their activities.

The government controlled all access to the Internet and took steps to censor all electronic mail, disallowing any attachments (see section 2.a.). State Security often read international correspondence and monitored overseas telephone calls and conversations with foreigners. The government also monitored domestic phone calls and correspondence and sometimes denied telephone service to dissidents. State Security agents subjected journalists to harassment and surveillance, including electronic surveillance and surreptitious entry into their homes (see section 2.a.).

In March Lourdes Esquivel Vieyto reported that prison officials refused to give her letters written by her imprisoned husband during February.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana and other major cities. On March 11, officials informed Barbaro Sanchez and two of his neighbors that they had to abandon their residences in Santiago de Cuba the next day. On March 12, officials demolished the homes because they were built without proper authorization, albeit on property owned by Mr. Sanchez and his neighbors.

On July 14, officials evicted Moises Leonardo and Roberto de Jesus Guerra, two members of the extralegal human rights organization Corriente Martiana from a fellow dissident's home on the grounds that the law prohibits citizens from changing residence without state approval.

The government sometimes punished family members for the activities of their relatives. On February 23, authorities expelled from school tenth-grade student Ernesto Luis Roque Veitia, the son of independent journalists Anna Rosa Veitia and Ernesto Roque. The stated reason for the expulsion was Roque Veitia's refusal to participate in a work brigade.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press insofar as they "conform to the aims of socialist society," a clause effectively barring free speech, and in practice the government did not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials impose penalties between three months and one year in prison; criticism of the president or members of the ANPP or Council of

State is punishable by three years' imprisonment. Disseminating "enemy propaganda," which included expressing opinions at odds with those of the government, is punishable by up to 14 years' imprisonment.

The government considers such materials as the Universal Declaration of Human Rights, international reports of human rights violations, and mainstream foreign newspapers and magazines to be enemy propaganda. Local CDRs inhibited freedom of speech by monitoring and reporting dissent or criticism.

Police and State Security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private to intimidate them. The government subjected dissenters to "acts of repudiation." The government also obliged members of state-controlled mass organizations, co-workers, or neighbors of victims to stage public protests against those who dissented from the government's policies, for instance, by shouting obscenities and often causing damage to the homes and property of those targeted. Physical attacks on the victims and their family members sometimes occurred. Police and State Security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

On March 19, four men forced their way into the home of dissident doctor Darsi Ferrer. They attacked him with a knife, seriously lacerated his right hand, and beat and threatened to kill him.

On May 8, a progovernment mob confronted and threatened the Ladies in White, spouses of political prisoners, as they took their weekly stroll after attending mass at Havana's Santa Rita church. Plainclothes government agents were visible at the scene.

On August 6, police arrested Albert Santiago DuBouchet, director of the independent Havana Press agency. He was subsequently sentenced to one year in prison for disrespect and resistance, a decision condemned by the Committee to Protect Journalists.

On September 16, in Santa Clara approximately 60 members of a progovernment mob struck independent journalist Guillermo Farinas with clubs after he took part in a protest outside a police station over the arrest of a dissident. The beating, which began after Farinas refused to say "Long Live Fidel Castro," left him badly bruised.

On October 16, a group of approximately 30 persons appeared outside the Havana home of veteran dissident Roberto de Miranda and during a 4-hour period shouted insults at de Miranda and his wife.

In October and November, in the Villa Clara city of Manicaragua, 21 prodemocracy and human rights activists accused the government of forbidding them to use public transportation, frequent restaurants, use public recreation facilities or receive visitors at home. The activists stated that their photos had been posted outside public establishments and grocery stores, so that workers would know whom not to serve.

The government reportedly threatened to take custody of children of some members of the political opposition. On November 7, a State Security official warned executive-turned-whistleblower Niurka Brito, "If you continue to have ties with the opposition, you could lose custody of your children."

The constitution provides that print and electronic media are inalienably state property. The government owned and the CP controlled all media except for a few small, unauthorized church-run publications. The law bars "clandestine printing" and provides for three to six months' imprisonment for failure to identify the author of a publication or the printing press used to produce the publication. Catholic church-run publications, denied access to mass printing equipment, were subject to governmental pressure. *Vitral* magazine, a publication of the diocese of Pinar del Rio, continued to publish during the year.

Citizens did not have the right to receive or possess publications from abroad, although newsstands in hotels for foreigners and certain hard currency stores sold foreign newspapers and magazines. The government continued to jam the transmissions of Radio Marti and Television Marti.

All media must operate under CP guidelines and reflect government views. The government also pressured groups normally outside official controls, such as visiting and resident international correspondents. Cars used by foreign journalists have unique license plates, enabling monitoring by the authorities. Expulsions lessened following the adoption of a stricter visa policy; the government barred some foreign journalists from entering the country.

Law 88 prohibits a broad range of activities that purportedly undermine state security. The law provides for fines and prison terms of 7 to 20 years for each charge for anyone possessing or disseminating "subversive" literature or supplying informa-

tion that U.S. authorities could use to apply U.S. legislation. At year's end 22 journalists arrested in 2003 for violating Law 88 remained in prison.

On March 24, journalist Oscar Mario Gonzalez was detained and interrogated by police. Police told him that he was considered one of the independent journalists most critical of the regime; the government continued to deny his request for an exit visa to visit his daughter.

On June 20, cartoonists in the city of Santa Clara were rounded up for interrogation after a series of antigovernment caricatures appeared in the city.

The government continued to subject independent journalists to: internal travel bans; arbitrary and periodic detentions (overnight or longer); harassment of family and friends; seizures of computers, office, and photographic equipment; and repeated threats of prolonged imprisonment. Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. Ministry of the Interior agents infiltrated and reported on independent journalists.

Authorities also placed journalists under house arrest to prevent them from reporting on human rights conferences and events and on court cases against activists (see section 1.d.). Police prevented independent journalists from covering "sensitive" events.

Authorities often confiscated journalists' equipment, especially photographic and recording equipment, on the grounds that it had been purchased illegally, despite receipted proof to the contrary. On November 29, state security officers in Santa Clara executed a search warrant to seize "counter-revolutionary" materials at the home of independent journalist Carlos Serpa Maceira. They reportedly confiscated his books, notes, radio, and two small recorders.

Resident foreign correspondents reported that intense government pressures, including official and informal complaints about articles, continued throughout the year. The government controlled resident foreign journalists by requiring them to obtain an exit permit each time they wished to leave the country. The government also required foreign correspondents to hire local staff from government agencies.

The government continued to control tightly distribution of information, including importation of foreign literature, which largely was unavailable to the public. The government frequently barred independent libraries from receiving materials from abroad and seized materials donated by foreign diplomats. The government prohibits diplomatic missions from printing or distributing publications, including newspapers and newspaper clippings, unless such publications exclusively address conditions in a mission's home country and prior government approval is received. Many missions did not accept this requirement and distributed prohibited materials.

On February 25, State Security agents entered the homes of Maria Elena Mir Marrero and Reinaldo Cosano Alen, directors of two independent libraries. The agents confiscated boxes containing books, radios, and copies of the Universal Declaration of Human Rights.

The government operated four national television stations, four national radio stations, one international radio station, one national magazine, and three national newspapers. Additionally, it operated many local radio stations, television stations, magazines, and newspapers. All were official organs of the CP, dedicated to promulgating its propaganda. Content was nearly uniform across all of these media; none reflected any degree of editorial independence. The regime tolerated the Catholic Church's publication and circulation of two magazines and several other publications but vigorously persecuted any other independent person or institution that attempted to distribute written, filmed, or photographed material. The only books published in the country were those published by the government, and state censors required pre-publication approval.

The government controlled all access to the Internet and subjected all electronic mail to review and censorship. In October Reporters without Borders noted that the government "does its best to keep its citizens away from the Internet." The Internet could be accessed only through government-approved institutions. Only foreigners were permitted to purchase Internet access cards from the national telephone monopoly, leading to a continued increase in clandestine Internet connections.

Direct Internet access was generally available only to certain government-approved individuals, including some doctors, professors, and journalists. The authorities continued to restrict the types and numbers of international Web sites that could be opened by citizens and did not permit church representatives to have Internet access. In November a foreign press account reported the government's acknowledgment that it blocked access to Web sites it considered to be terrorist, subversive, or pornographic.

On April 20, Internet access was suspended in Santiago de Cuba in anticipation of local elections. An employee of the only Internet cafe in the city reported that

the Internet service provider routinely cut service any time a politically significant event took place.

The government restricted academic freedom and continued to emphasize the importance of reinforcing revolutionary ideology and discipline. Academics were prohibited from meeting with some diplomats without prior government approval. The Ministry of Education required teachers to evaluate students' and their parents' ideological character and to place such evaluations in school records. These reports directly affected students' educational and career prospects. Government policy required teaching materials for courses such as mathematics or literature to have ideological content. Ideological indoctrination began with textbooks for students in the early primary grades. Government-controlled public libraries denied access to books or information unless the requester produces a government letter of permission.

Academics whom the government allowed to travel abroad were aware that their actions, if deemed politically unfavorable, could negatively impact those back home.

*b. Freedom of Peaceful Assembly and Association.*—Although the constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be “exercised against the existence and objectives of the Socialist State.”

*Freedom of Assembly.*—The law punishes any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to three months in prison and a fine. The authorities selectively enforced this prohibition and often used it as a pretext to harass and imprison human rights advocates.

On May 20, the government permitted a meeting in Havana of the Assembly to Promote Civil Society. Approximately 150 members and observers attended. However, two European journalists who sought to cover the event were expelled from the country, and for months afterwards, the government subjected participants to harassment, arrest, and other abuses. For example, on July 22, leaders of the Assembly for the Promotion of Civil Society Martha Beatriz Roque and Rene Gomez Manzano were among approximately 30 people arrested en route to a demonstration (see section 1.e.).

The authorities never have approved a public meeting by a human rights group and often detained activists to prevent them from attending meetings, demonstrations, or ceremonies. Unapproved meetings and demonstrations took place, which the government frequently disrupted, infiltrated, or attempted to prevent. Authorities sometimes used or incited violence against peaceful demonstrators.

On January 20, government agents assembled more than 500 people in the streets outside the house of Gerardo Lazcano Naranjo in efforts to disrupt a peaceful gathering at his home.

On July 13, authorities in Havana mobilized a Rapid Reaction Brigade against a small group convening at the city's sea wall for a peaceful commemoration ceremony. Brigade members verbally attacked and threatened the peaceful vigil, and police took into custody 30 participants, 7 of whom remained in custody at year's end. On August 12, at the instigation of the authorities, approximately 80 persons filled the streets in front of the home of Vladimiro Roca, leader of the outlawed political group Todos Unidos, thus preventing members of the group from attending a scheduled meeting.

On August 27, dissident doctor Darsi Ferrer organized a meeting of doctors and public health workers in Havana, which became the object of an “act of repudiation.” A government-organized mob blocked and jostled would-be participants and hurled abuse at those inside.

On December 10, 13 pro-democracy activists gathered in Sancti Spiritus at the home of Irma Gomez Ortiz to mark Human Rights Day. A crowd of 70 people, including CP members, massed out front, shouting insults at those inside.

*Freedom of Association.*—The law specifically prohibits unrecognized groups, and the government generally denied citizens the freedom of association. The authorities never have approved the existence of a human rights group; however, a number of professional associations operated as nongovernmental organizations (NGOs) without legal recognition, including the Association of Independent Teachers, the Association of Independent Lawyers, the Association of Independent Architects and Engineers, and several independent journalist organizations. The constitution proscribes any political organization other than the CP (see section 3).

Recognized churches (see section 2.c.), the Roman Catholic humanitarian organization Caritas, the Freemason movement, and a number of fraternal or professional organizations were the only associations permitted to function outside the control or influence of the state, the CP, and their mass organizations. The authorities con-

tinued to ignore applications from new groups for legal recognition, thereby subjecting members to potential charges of illegal association.

*c. Freedom of Religion.*—Although the constitution recognizes the right of citizens to profess and practice any religious belief within the framework of respect for the law, the government continued to restrict freedom of religion. The government requires churches and other religious groups to enroll with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. The government did not place any numerical limits on admissions to Catholic seminaries, and there were no constraints on ordination. In practice the government appeared to halt registration of new denominations, although no groups were known to have applied for registration during the year. The government tolerated some relatively new religions, such as the Baha'i Faith and a small congregation of the Church of Jesus Christ of Latter-day Saints. Officials frequently harassed and repressed unregistered religious groups.

The Ministry of Interior engaged in active efforts to control and monitor religious institutions, particularly through surveillance, infiltration, and harassment of religious professionals and practitioners. State Security officials visited priests and pastors prior to significant religious events to warn that dissidents were trying to "use the church." In many churches, most noticeably at Santa Rita's, in front of which relatives of political prisoners, the "Ladies in White," staged a weekly march for their release, State Security agents attended Mass for intimidation purposes.

Although it did not favor any one particular religion or church, the government appeared to be most tolerant of those churches that maintained close relations to the state through the Cuban Council of Churches (CCC), which often supported government policies.

The government, with rare exceptions, prohibited the construction of new churches, forcing many growing congregations to seek permits to meet in private homes. On February 18 the congregation of a Pentecostal parish in Havana rejected the government's order to demolish their church on the grounds that it was constructed illegally.

The government introduced a regulation to "legalize" thousands of private homes used for occasional church services; it set forth a number of requirements, including that the house host no more than three meetings per week and not be located within 1.2 miles of another such house. Some Protestants, whose congregations have grown in recent years, expressed worry that the regulation was aimed at them.

On January 7, Ismari de Armas lost her job at a Pinar del Rio sewing shop. The administrators of the state-owned shop told her they could not trust her because she was a Jehovah's Witness.

Education is secular, and no religious educational institutions are allowed; however, the Catholic Church, Protestant churches, and Jewish synagogues were permitted to offer religious education classes to their members.

Religious literature and materials must be imported through a registered religious group and may be distributed only to officially recognized religious groups.

The CCC continued to broadcast a monthly 15-minute radio program on condition that it not include material of a political nature.

On January 6, priests of the *babalawo* cult reported that government officials visited them to pressure them to assimilate with the government-sanctioned Yoruba Cultural Association (YCA); inquired about membership roles, including the number of foreigners involved in the church; and informed the priests that if they sought to leave country all of their icons would be confiscated, unless they had a YCA membership card.

*Societal Abuses and Discrimination.*—There were no reports of societal violence, harassment, or discrimination against members of religious groups. There were between 1,000 and 1,500 members of the Jewish community. There were no reports of overtly anti-Semitic acts.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law qualifies these rights, and the government severely restricted foreign travel and emigration. Although it generally did not restrict domestic travel, the government limited internal migration to Havana. State Security officials prohibited some human rights advocates and independent journalists from traveling outside their home provinces.

Although the law allows all citizens to travel anywhere within the country, residence is heavily restricted, thus impeding the right to move. The local housing commission and provincial government authorities consider requests for change of residence largely on the basis of housing space. According to the Cuban Commission for

Human Rights, the system is fraught with corruption. During the wait for permission, which routinely lasts six months or more, the applicant cannot obtain food rations or a local identification card. Police frequently checked the identification of persons on the streets, and anyone from another province living in Havana illegally may be fined and sent home. While the regulation was in effect nationwide, it was applied most frequently in Havana. Afro-Cubans from the more impoverished eastern provinces were disproportionately affected by this regulation.

On July 14, independent journalist Lamasiel Gutierrez Romero was taken into custody for several hours when she purchased a plane ticket to travel from her home on the Isla de Juventud to Havana. While in custody, she was beaten, held without food or water, and threatened with imprisonment for up to two years.

In September independent journalist Amarilis Cortina Rey was fined for living "without official permission" in the Havana house her grandfather purchased in 1924 and for which she was the only heiress. Residency law was enforced selectively in her case, likely because of Cortina's work as an independent journalist. A similar incident occurred in December when a neighbor of activist Martha Beatriz Roque was evicted, almost certainly because of her friendship with Roque.

The government imposed restrictions on both emigration and temporary foreign travel, mainly by requiring an exit permit. Although the government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart, thousands of citizens who received foreign travel documents were denied exit permits during the year. Most were doctors, nurses, and other health professionals. Others denied exit permits included young men of military age and citizens with certain political or religious beliefs. On December 14, the "Ladies in White"—relatives of political prisoners—were denied exit permits to receive the Sakharov Prize awarded to them by the European Parliament.

The government banned some of the professionals who were denied exit permits from working in their occupational fields or subjected them to arbitrary punishment. For instance, Doctor Amarilys Lorenzo Contreras and her dentist husband, Adalberto Dorrego Torres, were allowed to continue in their professions but were transferred to inferior government clinics after they sought exit permits.

Resolution 54 denies exit permits to medical professionals until they have performed three to five years of service in their profession after requesting permission to travel abroad. This regulation, which was normally applied to recent graduates, remained officially unpublished.

The denial of exit permits to men of military age usually covered individuals age 18 to 27; however, in most cases involving migration under the 1994 US-Cuba Migration Accords, the applicants eventually received exemption from obligatory service and were granted exit permits.

The government denied exit permits for several years to relatives of individuals who migrated illegally (for example, merchant seamen and sports figures who defected while out of the country). The government frequently withheld exit visas to control dissidents.

Jorge Olivera, one of the 75 political prisoners summarily convicted in 2003, requested exit permission on January 6 and at year's end remained waiting for a response. Juan Carlos Gonzalez Leiva, former political prisoner and current political activist, reported that eight of his relatives, including his parents, sister, and her family, have waited since January for exit permits.

On January 17, authorities revoked the exit permit of Nelida Hernandez de Llano, a member of the Christian Liberation Movement. She and her family had qualified for refugee status abroad.

On September 20, police prevented dissident Miguel Sigler, his wife Josefa Lopez, and their two children from leaving the country as refugees, despite approved documentation. The family returned to Havana where they were forced to stay with friends because the government had already seized their house in Matanzas. On September 27, as Lopez walked along a Havana street, an assailant beat her, declaring that it was a warning to her and her husband. On October 5, the Sigler family was allowed to emigrate.

The government also used both internal and external exile to control internal opposition. The law permits authorities to bar an individual from a certain area or to restrict an individual to a certain area for a period of 1 to 10 years. Under this provision, authorities may exile any person whose presence in a given location is considered "socially dangerous."

The government routinely invoked forced exile as a condition for political prisoner releases and also pressured activists to leave the country to escape future prosecution.

Migrants must pay processing fees (approximately \$180 [4,500 pesos] for exit permission, \$66 [1,650 pesos] for a passport, and \$30 [750 pesos] for an airport tax),

that amount to approximately 23 months' salary for the average citizen. Migrants to the United States faced an additional charge of approximately \$720 (18 thousand pesos or 5 years' salary) for adults and \$480 (12 thousand pesos) for children. These fees represented a significant hardship, particularly for political refugees, many of whom were fired from their jobs for being "politically unreliable" and had no income. At year's end some refugees were unable to leave the country because of inability to pay exit fees. Authorities routinely dispossessed refugees and their families of their homes and most of their belongings before permitting them to leave the country.

The law provides for imprisonment of up to 3 years or a fine of \$12 to \$40 (300 to 1,000 pesos) for unauthorized departures by boat or raft. The Office of the UN High Commissioner for Refugees (UNHCR) stated that it regarded imprisonment of more than one year for simple illegal exit as excessive. Under the terms of the 1994 US-Cuba Migration Accord, the government agreed not to prosecute or retaliate against migrants returned from international or US waters, or from the US Naval Base at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense. However, in practice some persons repatriated under the terms of the Accord reported harassment and discrimination.

*Protection of Refugees.*—Although the country is not a party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol, the constitution provides for the granting of asylum to individuals persecuted for their ideals or actions involving a number of specified political grounds. Although the government has no formal mechanism to process asylum for foreign nationals, in practice it provided protection against *refoulement*, the return of persons to a country where they feared persecution.

The government had an established system to provide assistance to refugees. During the year 39 persons applied for refugee status, of whom 10 were approved; according to the UNHCR, there were 708 refugees in the country. The government cooperated with the UNHCR, and provided temporary protection to a small number of persons.

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

While the constitution provides for direct election of provincial, municipal, and ANPP members, citizens do not have the right to change their government, and the government retaliated against those who sought peaceful political change. The constitution, which proscribes any political organization other than the CP, defines socialism as its "irrevocable" basis. Candidates for provincial and national office must be approved in advance by mass organizations controlled by the government. In practice a small group of leaders, under the direction of the president, selected the members of the highest policy-making bodies of the CP, the Politburo, and the Central Committee.

The government continued to reject the petition for a national referendum on political and economic reforms known as the Varela Project, despite more than 40 thousand signatures.

*Elections and Political Participation.*—In 2003 there were national elections in which 609 candidates were approved to compete for the 609 seats in the National Assembly. The CP was the only political party allowed to participate in the elections. A small minority of candidates did not belong formally to the CP but were chosen through the same government-controlled selection process. The government saturated the media and used government ministries, CP entities, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form.

During the year there were elections for nearly 15 thousand local representatives to the municipal assemblies. After the first run-off election, the government reported that 96.6 percent of the electorate had voted. While the law allows citizens not to vote, CDRs often pressured neighborhood residents to cast ballots. According to the Cuban Commission for Human Rights, the government blacklisted those who did not vote.

Although not a formal requirement, in practice CP membership was a prerequisite for high-level official positions and professional advancement.

The government rejected any change to the political system that it judged incompatible with the revolution and ignored or actively suppressed calls for democratic reform. After the Christian Liberation Movement, led by Oswaldo Paya, submitted to the National Assembly two petitions (known as the Varela Project) proposing a national referendum on political and economic reforms, the National Assembly in 2003 unanimously passed an amendment making socialism the irrevocable basis of the constitution.



Varela organizers continued to collect signatures in support of their proposal; however, activists reported increased harassment by State Security agents. Authorities arrested and detained Varela activists, confiscated signatures, fined and threatened activists and signers, and forced signers to rescind signatures. State Security impersonated canvassing volunteers and increasingly infiltrated the ranks of activists. In May and June, Oswaldo Paya reported State Security agents visited and pressured more than 50 Varela Project signatories to retract their signatures and denounce the Varela Project activists who had collected their signatures.

There were 2 women in the 24-member Politburo and 22 in the 150-member Central Committee. Women held 5 seats in the 390 member-Council of State and 219 seats in the 609-seat National Assembly.

While the 2002 census recorded that blacks and persons of partial African descent account for 35 percent of the population, according to the 2002 census, some observers estimated that Afro-Cubans made up 50 percent or more of the population. Persons of African descent held 6 seats in the 24-member Politburo. Following the selection of the new ANPP in 2003, the government reported its composition as 67 percent white, 22 percent black, and 11 percent mixed race.

*Government Corruption and Transparency.*—Independent and official press reported incidents of government corruption. In October the government acknowledged massive corruption at state-run gas stations and ordered youth brigades to take over their operations. Also during the year, the government released statistics indicating that prosecutors over the past three years had made 16 thousand accusations for economic crimes at state-run companies.

The law provides for public access to government information, but in practice requests for information routinely were rejected, often on the grounds that access was not a right. Many convicts and their defense attorneys never received a copy of the sentence certification to which they were legally entitled.

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

In violation of its own statutes, the government did not recognize any domestic human rights groups or permit them to function legally. Several human rights organizations continued to function outside the law, including the Cuban Commission for Human Rights and National Reconciliation, the Cuban Committee for Human Rights, and the Cuban Human Rights Party. The government subjected domestic human rights advocates to intense intimidation and harassment, including threats of disappearance. For example, on September 17 in Pinar del Rio city, State Security agents visited the home of human rights activist Virgilio Pita Rivero and told his wife that if he did not end his activities, they would “make him disappear.”

State Security officials often infiltrated human rights organizations and subjected them to constant surveillance. Public identification of suspected state infiltrators was a crime punishable by 8 to 15 years’ imprisonment.

The government took various steps to restrict the operation of domestic human rights NGOs that advocated or criticized the government’s human rights policies. Government authorities regularly threatened NGOs with prosecution under the Penal Code provisions of “dangerousness” (see section 1.a.) Both the UN Commission on Human Rights (UNCHR) and the IACHR criticized this tactic for its arbitrariness, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. Private individuals acting in response to government instigation and coercion often harassed members of human rights NGOs; crowds assembled at their homes prevented access, intimidated people, and sometimes caused material damage.

The government rejected international human rights monitoring, did not recognize the mandate of the UNCHR, and refused to acknowledge requests by the Personal Representative of the Commissioner on Human Rights, to visit the country. Meanwhile, the UNCHR renewed the status of the personal representative.

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

The constitution prohibits discrimination based on race, gender, disability, or social status, however, racial discrimination occurred frequently.

*Women.*—The law prohibits threats and inflicting injuries, including those associated with domestic violence. Human rights advocates reported that violence against women was a problem, and police often did not act on cases of domestic violence. Violent crime rarely was reported in the press, and there was no available data regarding the extent of domestic violence.

The law criminalizes rape (though it was unclear whether that included spousal rape) and stipulates penalties ranging from 4 to 10 years’ imprisonment. If two or more rapists are involved, or if the rapist had been convicted previously of the same

offense, sentences could reach 15 years. If the victim is under 12, or if the act results in injuries or grave illness, capital punishment is possible. The government enforced the law.

Prostitution is legal for persons over age 17, but pandering and economic activities facilitating prostitution, including room rentals, are illegal. Large numbers of foreign tourists visited the country specifically to patronize prostitutes, and sex tourism was a problem. Some street police officers were suspected of providing protection to individuals engaged in prostitution, who were numerous and visible in Havana and other major cities.

The law provides penalties for sexual harassment, with potential sentences of three months to five years' imprisonment. The rigor of enforcement and the extent of the problem were unclear. The law was applied most frequently to male supervisors "abusing their power" with female subordinates, according to the Cuban Commission for Human Rights.

The law provides that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. The law grants working mothers preferential access to goods and services. The law provides for equal pay for equal work, and women generally received pay comparable to men for similar work.

*Children.*—The law provides that all children have equal rights and that parents have a duty to ensure their protection. Public education was free through the university level. The law requires school attendance until the ninth grade, which was the highest level achieved by most children. The government reported that 99.4 percent of primary-school-age children were enrolled in school during the 2004–05 schoolyear, while UNICEF recorded that 93.1 percent of secondary-school-age children were enrolled in the 2003–04 school year. All elementary and secondary school students received obligatory ideological indoctrination.

Boys and girls had equal access to a national health care system that covered all citizens. UNICEF reported high vaccination rates for childhood diseases. Children up to age seven received additional food rations through the ration card system.

Although seldom covered in the official media, there were occasional reports of child abuse, but there was no societal pattern of child abuse. Researchers released the results of a 6-year study of child abuse in the Santiago area, conducted by the Superior Institute of Medical Sciences, which found that 50 percent of children aged 8 to 10 reported having been punched or kicked following the ingestion of alcohol by their parents.

Police officers who found children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If a child was found bothering tourists more than once, police frequently fined the child's parents. During their summer vacation, students were pressured to enlist for up to a week of "volunteer labor" at work camps in rural areas.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families (see section 5, Trafficking). Children may marry with the consent of their parents at age 14, but the law provides for 2 to 5 years' imprisonment for anyone who "induces minors under 16 years of age to practice homosexuality or prostitution."

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons, and there were no reports that persons were trafficked to or from the country. Trafficking for underage prostitution and forced labor occurred within the country.

The law criminalizes promoting or organizing the entrance of persons into, or the exit of persons from, the country for the purpose of prostitution; violators were subject to 20 to 30 years' imprisonment.

The Ministries of Justice and Education, the PNR, and local governments are tasked with different facets of combating trafficking in persons and the problem of underage prostitution; no entity had complete autonomy dealing with these problems. The police were tasked with investigating and arresting traffickers; the Ministry of Justice with prosecuting and incarcerating traffickers; and the Ministry of Education with rehabilitating prostitutes, including underage prostitutes. No information was available concerning government assistance with international investigations of trafficking or the extradition of traffickers.

While underage prostitution was widely apparent, there were no reliable statistics available regarding its extent. Although the police generally enforced laws on underage prostitution, the phenomenon continued, with cabarets and discos catering to sex tourists. The government prosecuted persons involved in child prostitution and child pornography and assisted other countries in international investigations of child sexual abuse.

Trafficking victims came from all over the country, and most worked in the major cities and tourist resort areas. Anecdotal information indicated that victims came from poor families; in many cases, families encouraged victims to enter into prostitution.

There was no information available regarding traffickers and their methods.

There were anecdotal reports of police officers receiving bribes to allow exploitation of minors for prostitution.

Individuals engaged in prostitution, including possible trafficking victims and children, often were treated as criminals, detained, and taken to rehabilitation centers.

No civil society groups in the country assisted trafficking victims in an official capacity.

*Persons with Disabilities.*—There was no known law prohibiting official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, a Labor Ministry resolution gives persons with disabilities the right to equal employment opportunities, and to equal pay for equal work. There was no official discrimination against persons with disabilities. There are no laws mandating accessibility to buildings for persons with disabilities, and in practice, buildings and transportation rarely were accessible to persons with disabilities.

The Special Education Division of the Ministry of Education was responsible for the education and training of children with disabilities. The Ministry of Labor and Social Security was in charge of the Job Program for the Handicapped.

*National/Racial/Ethnic Minorities.*—Although there were many black police officers and army enlisted personnel, racial discrimination often occurred. Blacks complained of frequent and disproportionate stops for identity checks.

*Other Societal Abuses and Discrimination.*—Societal discrimination against homosexuals persisted, as police occasionally conducted sweeps in areas where homosexuals congregated, particularly along sections of Havana's waterfront.

The government restricted persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community. Even after their release, some persons with HIV/AIDS said the government monitored their movements with a de-facto chaperone to prevent the spread of the illness. HIV/AIDS sufferers also asserted that state medical professionals frequently failed to respect confidentiality, with the result that their condition was known widely throughout their neighborhoods. Some persons with HIV/AIDS said the government only offered them jobs incompatible with their medical condition.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law does not allow workers to form and join unions of their choice. Rather, the state established official unions and did not permit competing independent unions. Official labor unions have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations were under the control of the state and the CP, which also managed the enterprises for which the laborers worked. Because all legal unions were government entities, antiunion discrimination by definition did not exist.

The CP selects the leaders of the sole legal labor confederation, the Confederation of Cuban Workers (CTC), whose principal responsibility is to ensure that government production goals are met. Virtually all workers were required to belong to the CTC, and promotions were frequently limited to CP members who take part in mandatory marches, public humiliations of dissidents, and other state-organized activities.

Workers often lost their jobs because of their political beliefs, including their refusal to join the official union. Several small independent labor organizations were created, although they functioned without legal recognition. These organizations also were subject to infiltration by government agents and were unable to represent workers effectively or work on their behalf.

On January 11, independent union organizer Juan Antonio Salazar was arbitrarily detained by police while he was walking down the street. Police threatened to charge Salazar with "threatening behavior" but after several hours released him without charges.

*b. The Right to Organize and Bargain Collectively.*—Although provided for in the law, collective bargaining does not exist in practice. The State Committee for Work and Social Security sets wages and salaries for the state sector, which is virtually the only employer in the country. The law does not provide for strikes, and none

were known to have occurred during the year. There are no special laws or exemptions from regular labor laws in the three export processing zones.

The law denies all workers, except those with special government permission, the right to contract directly with foreign companies investing in the country. Although a few firms negotiated exceptions, the government required foreign investors and diplomatic missions to contract workers through state employment agencies, which were paid in foreign currency, but which, in turn, paid workers very low wages in pesos (see section 6.e.) Workers subcontracted by state employment agencies must meet certain political qualifications. The state employment agencies consulted with the CP, the CTC, and the Union of Communist Youth to ensure that the workers chosen “deserved” to work in a joint enterprise.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit forced or compulsory labor by adults. The government maintained correctional centers for persons convicted of such crimes as “dangerousness” (see section 1.a.). Prisoners held in such centers were forced to work on farms or at sites performing construction, agricultural, or metal work. The authorities also often imprisoned persons sent to work sites who refused to work.

On July 5, Ernesto Arocha Carta, a retiree who had been declared disabled, filed a complaint with the Ministry of Justice protesting his sentence to one year’s house arrest, which included forced labor.

The law prohibits forced or compulsory labor by children, but there were reports that such practices occurred (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced and compulsory labor by children, and the Ministry of Labor and Social Security was responsible for enforcement. Nonetheless, the government required children to work in various situations.

Students at rural boarding schools were expected to participate in several hours of manual labor per day. Secondary school students were expected to devote up to 15 days of their summer vacation completing a variety of tasks ranging from farm labor to urban cleanup projects and were paid a small wage for this labor. Students in post-secondary institutions (technical schools, university preparatory schools, and agricultural institutes) were expected to devote 30 to 45 days per year to primarily agricultural work. Refusal to do agricultural work could result in expulsion from school.

The legal minimum working age is 17, but the Labor Code permits the employment of 15- and 16-year-old children to obtain training or to fill labor shortages. The Labor Code does not permit teenagers to work more than 7 hours per day or 40 hours per week or on holidays. Children age 13 to 18 cannot work in specified hazardous occupations, such as mining, or at night.

*e. Acceptable Conditions of Work.*—The minimum wage, which is enforced by the labor ministry, varies by occupation. On average, the minimum monthly wage approximated \$9 (225 pesos). The government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of being admitted to a hospital), housing, and some subsidized food. Even with subsidies, the minimum wage did not provide a decent standard of living for a worker and family.

The government required foreign companies in joint ventures with state entities to hire and pay workers through the state (see section 6.b.). HRW noted that the required reliance on state-controlled employment agencies left workers without any capacity directly to negotiate wages, benefits, the basis of promotions, or the length of the workers’ trial period at the job with the employer. Foreign companies paid the government as much as \$500 to \$600 per worker per month; however, because the government paid salaries in nonconvertible pesos, workers only received 5 percent of the money foreign companies paid to the government for their services.

The standard workweek was 44 hours, with shorter workweeks in hazardous occupations, such as mining. The law provides workers with a weekly 24-hour rest period. These standards were effectively enforced. The law does not provide for premium pay for overtime or prohibit obligatory overtime. Workers were occasionally asked to work overtime at their usual, non-overtime rate; refusal to do so could result in a notation in the employee’s official work history that could imperil any subsequent request for vacation time.

Laws providing for workplace environmental and safety controls were inadequate, and the government lacked effective enforcement mechanisms. In December the government announced that in the first 11 months of the year, 90 people died in work-related accidents, compared with 72 for the same period in 2004. The law provides that a worker who considers his life in danger because of hazardous conditions has the right to refuse to work in a position or not to engage in specific activities until

such risks are eliminated; the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

## DOMINICA

Dominica is a multiparty, parliamentary democracy with a population of approximately 70,400. Prime Minister Roosevelt Skerrit's Dominica Labour Party (DLP) prevailed in elections in May, the results of which were certified despite challenges filed by the opposition in a few constituencies. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas:

- poor prison conditions
- violence against women and children
- conditions experienced by indigenous Carib Indians

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, police investigated two instances in which security forces allegedly committed unjustified killings.

In February police reportedly beat, shot, and killed Clifford Ambo. According to press reports, the Ambo's family complained that the killing was unjustified. Police completed their investigation into the killing, the results of which were under review by the director of public prosecutions (DPP) at year's end.

Also in February prison guards reportedly beat to death Henson Joseph after catching him attempting to escape. The incident came to public attention after inmates sent anonymous letters to the press. Police completed their investigation into the killing, the results of which were under review by the DPP at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the law prohibits such practices, complainants brought six cases against the police charging use of excessive force during the year. At year's end all six were before the police force's internal disciplinary tribunal.

Of the seven cases of excessive force brought against police in 2004, authorities dismissed three for lack of evidence. Four cases went to the internal disciplinary tribunal, which found the officers guilty and imposed administrative penalties. At year's end three of the affected officers filed appeals.

*Prison and Detention Center Conditions.*—Prison conditions were poor. The buildings at the country's single prison, Stock Farm, were in disrepair; conditions remained unsanitary; and overcrowding was a serious problem. The prison held 282 prisoners in a facility designed for fewer than 200 inmates. Prison overcrowding contributed to several escapes by inmates during the year. In June a citizen reportedly shot and killed one escaped inmate while authorities searched for him.

Pretrial detainees were held with convicted prisoners, due to a lack of separate facilities.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

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

*Role of the Police and Security Apparatus.*—The prime minister's office oversaw the Dominica Police, the country's only security force. The 392-officer force effectively carried out its responsibilities to maintain public order. The police have a formal complaint procedure to handle allegations of excessive force or abuse by police officers.

*Arrest and Detention.*—The police apprehend persons openly with warrants issued by a judicial authority. The law requires that the authorities inform persons of the reasons for arrest within 24 hours after arrest and bring the detainee to court within 72 hours. This requirement generally was honored in practice; however, if the authorities were unable to bring a detainee to court within the requisite period, the detainee could be released and rearrested at a later time. There is a functioning system of bail. Criminal detainees were provided prompt access to counsel and family members.

There were no reports of political detainees.

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

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate's courts located in police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

*Trial Procedures.*—The law provides for the right to a fair trial before an independent, impartial court, and an independent judiciary generally enforced this right. There are trials by jury, and defendants can confront or question witnesses. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to the indigent only in capital cases.

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

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

#### *Section 2. Respect for Civil Liberties, Including:*

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Although churches are not required to register, they must do so to own property, and ministers of registered churches may have an easier time obtaining long-term work visas. In 2004 the Church of Jesus Christ of Latter-day Saints reported difficulties receiving official government recognition, but the new attorney general issued a consent form that would allow the church to register. It planned to do so as soon as possible, but the matter was still pending at year's end.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was no organized Jewish community.

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

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

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

*Protection of Refugees.*—The government has not formulated a policy regarding refugees or asylum. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

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

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

*Elections and Political Participation.*—In May the ruling DLP won 12 seats in parliamentary elections, defeating the United Workers' Party (UWP), which won 8 seats. An independent candidate affiliated with the DLP also won a seat. The opposition UWP complained of electoral irregularities and challenged in court the results in five constituencies. In October a high court judge dismissed the UWP's petition, citing a lack of evidence, but the opposition planned to appeal the decision. Although the country has a history of holding free and fair elections, impartial election observers were not present to verify the results.

There were 2 women in the 30-seat legislature: an elected parliamentary representative who also served in the cabinet and a senator appointed by the president.

The parliamentary representative for the constituency that includes the Carib Territory was a Carib Indian; he served concurrently as minister for Carib affairs.

*Government Corruption and Transparency.*—Corruption was a moderate problem, but the country has not formulated an anticorruption plan to address it.

The law does not provide for public access to government information, and the government did not provide such access in practice.

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

There were no government restrictions on the formation of local human rights organizations, although no such groups existed. Several advocacy groups, such as the Association of Disabled People, the Dominica National Council of Women, and a women's and children's self-help organization, operated freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

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

The law specifically prohibits discrimination based on race, gender, place of origin, color, and creed, which the authorities generally respected in practice.

*Women.*—Domestic violence cases were common. Although there are no specific spousal abuse laws, women could bring charges against husbands for battery, and the police and the courts prosecuted cases of rape and sexual assault. Rape cases were handled solely by female police officers. Although the maximum sentence for sexual molestation (rape or incest) is 25 years' imprisonment, the normal sentence given was 5 to 7 years except in the case of murder. The Department of Labor established a crisis response mechanism to assist women who were victims of domestic violence. The Welfare Department of the Ministry of Community Development assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reported all cases of abuse to the police.

The Protection against Domestic Violence Act allows abused persons to appear before a magistrate without an attorney and request a protective order. The court also may order the alleged perpetrator to be removed from the home in order to allow the victims, usually women and children, to remain in the home while the matter is investigated. Police officers continued to receive training in dealing with domestic abuse cases. The Dominica National Council of Women, a nongovernmental organization, provided preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily and provided to approximately 150 persons during the year. Due to a shortage of funding, the organization only could permit persons to stay at the shelter for several days at a time; however, if needed, further housing was provided in private homes for up to three weeks. The Catholic Church continued to be active in educating the public about domestic violence.

Prostitution is illegal but was a problem. Women from the Dominican Republic reportedly traveled to the country to work as prostitutes. There was no evidence that they were trafficked.

The law does not prohibit sexual harassment, and it remained a problem.

While there was little open discrimination against women, property ownership continued to be deeded to heads of households, who were usually males. When the male head of household dies without a will, the wife may not inherit or sell the property, although she may live in it and pass it to her children. The law establishes fixed pay rates for specific civil service jobs, regardless of gender. The Labor Department reported that many rural women found it difficult to meet basic economic needs, which partly resulted from the continuing decline of the banana export industry.

The Ministry of Community Development and Gender Affairs is charged with promoting and ensuring the legal rights of women.

*Children.*—The government was committed to children's rights and welfare.

Education is compulsory, free, and universal through the age of 16. Approximately 90 percent of primary school-age children attended school. In September the government made secondary education universal.

Primary health care was available throughout the island, and boys and girls had equal access.

Child abuse continued to be a problem. During the year the Welfare Department received 152 reports of child abuse, including child sexual abuse and incest, compared with 114 in 2004. Enforcement of children's rights laws continued to be hampered by lack of staff.

The age of consent for sexual relations is 16 years. No specific laws prohibit commercial sexual exploitation of children, but such activity could be prosecuted under laws against prostitution or trafficking.

*Trafficking in Persons.*—The law prohibits trafficking in persons, specifically involving forced labor, commercial sexual exploitation, and smuggling illegal migrants. There were no reports that persons were trafficked to, from, or within the country. Persons convicted of trafficking are subject to a fine of \$37,500 (EC\$100 thousand) and up to 7 years in prison.

*Persons with Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities, but there was no discrimination against them in employment, education, access to health care, or in the provision of other state services. There is no legal requirement mandating access to buildings for persons with disabilities. Labor laws permit authorization of employment to persons with disabilities for less than the minimum wage, to increase employment opportunities for such persons (see section 6.e.).

*Indigenous People.*—There was a significant Carib Indian population, estimated at 3,500 persons, most of whom lived in the 3,782-acre Carib Territory. Despite having a representative in the government, the Caribs believed that the government could do more to protect their civil and political rights. The government has a Ministry of Carib Affairs headed by a Carib Indian. A police station on the Carib Territory was staffed by four to five officers, several of whom were typically Caribs. School, water, and health facilities on the territory were rudimentary but similar to those available to other rural citizens; there were four primary schools in the Carib Territory and two secondary schools in nearby communities attended by Carib children. Unemployment in the territory generally was higher than in the rest of the country, and average income was below the national average.

The Carib Act states that any child of a Carib Indian is also Carib. Non-Caribs may become Carib Indians if they are invited to live in the Carib Territory and continuously do so for 12 years. Every 5 years Carib Indians over the age of 18 who reside there may vote for the chief and 6 members of the Council of Advisors (they also are eligible to vote in national elections). According to the Carib Act, the council must meet once a month, determine the chief's itinerary, and publish council meeting agendas in the government Gazette.

Territory building permits may be obtained from the Carib Council and only were available to Carib Indians. Although the law permits Carib men and women married to non-Caribs to continue living in the territory, in practice Carib women married to non-Caribs had to move out of the territory.

The law establishing the Carib Territory does not delineate clearly the territorial boundaries. Carib Indians continued to report difficulties obtaining bank financing, particularly since reservation land was communal and therefore unavailable for use as collateral for loans.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers exercised the legal right to organize and choose their representatives. Unions represented approximately one-third of the total work force; approximately half of government workers were unionized.

While the law provides that employers must reinstate workers fired for union activities, unions were concerned that this law was not enforced. The National Workers Union and the Waterfront and Allied Workers Union pursued separate cases on behalf of shop stewards who allegedly were dismissed for union activities in 2003. These two cases remained unresolved at year's end.

*b. The Right to Organize and Bargain Collectively.*—Unions have legally defined rights to organize workers and to bargain with employers. Workers exercised this right, particularly in the nonagricultural sectors of the economy, including in government service. Government mediation and arbitration were also available. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. The banana, coconut, and citrus fruit industries as well as port services were deemed essential services, which effectively prohibits workers in these sectors from going on strike. The International Labor Organization considered this definition overly broad and repeatedly urged the government to redefine essential services in a more limited way. However, the size of the agricultural industry declined significantly and was concentrated mainly in small family farms. Thus there was little domestic impetus to change this or other sections of the labor laws that were out of date but had little real impact upon workplace issues.

In 2004 a court found in favor of the government in a case brought by the Public Service Union (PSU) concerning the legality of government cost-cutting measures. The PSU appealed the decision to the Privy Council in London, and a decision was pending at year's end.



*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although two laws prohibit employment of children, one law defines a “child” as under age 12 and the other as under age 14. The government defined 15 years as the minimum age for employment and enforced this standard in principle. Children between the ages of 12 and 14 were allowed to work only in certain family enterprises such as farming. Safety standards limit the type or work, conditions, and hours of work for children over the age of 14. The government effectively enforced these standards.

*e. Acceptable Conditions of Work.*—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) was as low as \$0.37 (EC\$1.00) per hour if meals were included. However, minimum wages for most workers ranged from \$0.74 (EC\$2.00) per hour for tourist industry workers to \$1.11 (EC\$3.00) per hour for occupations such as shop clerk. Minimum wages did not provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earned more than the legislated minimum wage for their category, and there was no need to enforce the outdated legal minimum wages.

Labor laws provide that the labor commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides overtime for work above the standard workweek; however, excessive overtime is not prohibited. The government effectively enforced these standards.

The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conduct health and safety surveys. The Department of Labor conducts inspections that prescribe specific compliance measures, impose fines, and can result in prosecution of offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment, and the authorities effectively enforced this right.

## DOMINICAN REPUBLIC

The Dominican Republic is a representative constitutional democracy with a population of approximately 8.8 million, including an estimated 650 thousand undocumented Haitians. In August 2004 President Leonel Fernandez of the Dominican Liberation Party (PLD) was re-elected in a generally free and fair election. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government's human rights record remained poor. Although there were improvements in a few areas, serious problems remained. The following human rights problems were reported:

- unlawful killings committed by security forces
- torture, beating, and other abuse of suspects, detainees, and prisoners by security forces
- poor to harsh prison conditions
- arbitrary arrest and detention of suspects
- lengthy pretrial detention and long trial delays
- self-censorship practiced by journalists and editors
- restricted movement and arbitrary expulsion of Haitian and Dominican-Haitian migrants
- violence and discrimination against women
- child prostitution and other abuse of children
- severe discrimination against and abuse of Haitian migrants and their descendants
- trafficking in persons
- forced labor
- restrictions on freedom of organization and unsafe labor conditions
- child labor in the informal sector

The government made some advances in improving respect for human rights. A new Criminal Procedures Code and a new Code for Minors provided suspects with additional protections but also stiffer sanctions in cases of sexual or commercial exploitation. The government improved its capacity to fight trafficking in persons, to provide assistance for victims, and to increase investigations of traffickers.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government or its agents did not commit any politically motivated killings, security forces were involved in many killings that were unlawful, unwarranted, or involved excessive use of force.

According to the Attorney General's Office, security forces killed between 400 and 440 persons during the year. The National Police reported 371 deaths at the hands of police between January and September, an average of 41 per month. However, such deaths declined in the second half of the year, under the administration of a new police chief, to a monthly figure of 14 in December. In the majority of killings by police, the police stated that the deaths resulted from gunfire exchange in the course of an arrest, which required officers to act in self-defense. According to the National Commission on Human Rights, many killings were related to aggressive tactics on the part of the police.

Human rights organizations stated that the police employed unwarranted deadly force against criminal suspects as in previous years, and uniformed vigilantism persisted on a less-than-deadly level (see section 1.c.). The lack of qualified investigators and the nontransparent conduct of investigations of killings in "exchanges of gunfire" resulted in impunity in a number of cases. Late in the year, however, the new police chief instituted a mandatory formal review whenever a member of the police force was involved in a death by shooting.

Many cases previously referred to courts for investigation remained unresolved or resulted in the release of the accused. There was no record of any Supreme Court investigation into the court-ordered release of police officer Cristino Alvarez Ventura, who shot and killed a youth in 2003.

In October a court sentenced former police Sergeants Rafael Matos Feliz and Homero Zapata and Lieutenant Cristian Feliz Gomez to 20, 10, and 3 years' imprisonment, respectively, for the 2002 killing of a university student in which the officers claimed that they thought he was a delinquent.

Police Lieutenant Juan Bautista Berroa was jailed for an unlawful killing in 2002 in San Francisco de Macoris. His trial was rescheduled several times, most recently for February 2006.

A significant number of deaths occurred in custody due to negligence by prison authorities (see section 1.c.).

There were reports of violence against demonstrators and protesters by members of the security forces, including some killings (see section 2.b.).

On a number of occasions citizens attacked Haitians in vigilante-style reprisals for violent crimes allegedly committed by other Haitians. In some cases the Haitians targeted were killed.

In August a late night drunken robbery attempt in the Santo Domingo suburb of Haina turned into a violent attack when several Dominicans beat four Haitians, then doused them with flammable liquid, and set them on fire. Three died, and the fourth fled with severe burns. A special commission from the National Police investigated the case.

In December in Villa Trina a group of Haitians killed a Dominican who they alleged had been attacking them. Subsequently, unidentified Dominicans killed a Haitian man, injured others, and burned down several Haitian residences.

*b. Disappearance.*—There were no reports of politically motivated disappearances. There were no developments in the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in 1994.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, security force personnel, primarily mid-level and lower-ranking members of the police, continued to torture, beat, and otherwise physically abuse detainees and prisoners.

The law provides penalties for torture and physical abuse, including sentences of 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. New abuse and torture cases were remanded to civilian criminal courts as they arose; mid-level officers sometimes contested civilian jurisdiction (see section 1.e.).

Senior police officials took the prohibition on torture and physical abuse seriously, but lack of supervision, training, and accountability throughout the law enforcement and corrections systems undercut efforts to contain the problem. Human rights groups reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse.

According to human rights organizations, both the National Police and prison officials used forms of torture. The method most often used was beating. Human rights organizations also reported asphyxiation with plastic bags to elicit confessions as a form of torture.

According to the National Commission on Human Rights, military and police officials reportedly harassed, beat, and randomly deported Haitians living in the border towns of Pedernales and Elias Pina (see section 2.d.).

Lawyers from the National District Prosecutor's Office monitored the investigative process to ensure that detainees' rights were respected in high-volume police stations and in several National Drug Control Directorate (DNCD) offices (see section 1.d.). There was some evidence that assistant prosecutors at times acquiesced in traditional police practices rather than attempt to raise these practices to constitutional standards. However, with the implementation of the new Criminal Procedures Code in September 2004, detainees received additional protections, and respect for detainee rights improved, including through increased enforcement of time limits for pretrial detention (see section 1.d.).

Both the National Police and armed forces offered training courses in human rights (see section 1.d.).

*Prison and Detention Center Conditions.*—Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of the authorities' control. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Most inmates begged or purchased food from persons in the vicinity of the prison or obtained it from family members. Prisoners were not taken to their trials unless they paid bribes to the guards (see sections 1.d. and 1.e.), and visitors often had to bribe prison guards in order to visit prisoners. Prison officials accepted money in exchange for a recommendation that a prisoner be furloughed or released for health reasons. Prisons often did not provide adequate medical care to inmates. Prisoners immobilized by AIDS or who had terminal illnesses were not transferred to hospitals.

According to the Directorate of Prisons, the police and the military held approximately 13 thousand prisoners and detainees in 35 prisons with an intended capacity of approximately 9 thousand. Virtually all prisons experienced extreme overcrowding. La Victoria prison, the largest in the country, held more than 3,500 prisoners in a facility designed for 1 thousand and had only 354 beds for its inmates. Rafey prison held approximately 1,200 prisoners in a facility designed to hold 600.

Although a warden who reports to the attorney general was responsible for running each prison, in practice a police or military officer (generally appointed for a period of only three to six months and responsible for providing security) was usually in charge of the prison. Overcrowding was so severe that some prisons were totally out of the authorities' control and were, in effect, operated by gangs and armed inmates.

The press and human rights groups reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors.

There were a number of deaths due to negligence in the prisons. During a riot in March, armed rival gangs fought for control of a section of the Higüey prison called Vietnam. During the fight inmates set fire to a cellblock. At least 136 inmates died and 26 were injured. According to the National Police, firefighters could not reach the prisoners in time because inmates had jammed the locks with sand and other debris. While the Higüey prison was built to hold 80 inmates, the prison director reported that it held 426 inmates at the time of the fire. The burned cellblock, designed for no more than 40, held more than 150 inmates. The majority of the persons who died in the fire were in pretrial custody. Government officials announced that authorities would file murder charges against prisoners and law enforcement officials who were involved, and they arrested five inmates who were awaiting trial at year's end.

Although female inmates generally were separated from male inmates, there were some cases of male and female prisoners being held together. Half of the total female population was held in a female-only prison. Conditions in the female prison wings generally were better than those in male prison wings. There were some reports of guards physically and sexually abusing female inmates. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those

who gave birth while incarcerated were permitted to keep their babies with them for a year.

Juveniles often were detained with the general prison population. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers.

Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

The government permitted prison visits by independent human rights observers and by the press, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—Although the Criminal Procedures Code implemented in September 2004 prohibits detention without a warrant unless a suspect is apprehended in the act or in other limited circumstances, arbitrary arrest and detention continued to be problems.

*Role of the Police and Security Apparatus.*—The National Police, the National Department of Investigations (DNI), the DNCD, the Airport Security Authority (CESA), Port Security Authority (CESEP), and the armed forces (army, air force, and navy) form the security forces. The Ministry of the Interior and Police is responsible for making policy decisions affecting the police force. The military's domestic responsibilities include maintaining public order and protecting persons and property. The military, CESA, and CESEP are under the secretary of the armed forces; and the DNI and the DNCD, which have personnel both from the police and from the military, report directly to the president.

According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to obtain bribes from Haitians attempting to cross illegally.

The Police Abuse Prevention Center (CEPRAPO) reported more than 40 cases of police abuse to the police Office of Internal Affairs. According to CEPRAPO, police officially responded to only two of these cases.

Police officers were fired for violent attacks, extortion, drug use, and trafficking. Significant problems of this nature remained, in part because of insufficient vetting of the backgrounds of police recruits. Many persons with prior criminal records allegedly were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to unlawful or unwarranted killings and to cruel or inhuman treatment (see section 1.a.).

The Institute of Human Dignity, a branch of the National Police, monitors human rights abuses committed by members of the National Police. The institute held more than 100 courses, seminars, and conferences, which were attended by members of the National Police, armed forces, and civilians. From January to September, more than 1,500 participants graduated from the police human dignity course.

Training for military and DNCD enlisted personnel and officers included instruction on human rights. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. Nearly seven thousand participants from the military and civil society received training during the year.

Systems for monitoring and sanctioning abuses of human rights remained ineffective.

*Arrest and Detention.*—The law provides that an accused may be detained for 48 hours before being presented to judicial authorities. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held; however, at times the police violated constitutional and legal provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit or detaining suspects without a warrant. Police often detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merited release, and who they should continue to hold. Additionally police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess. These practices were employed less often after the new Criminal Procedures Code came into force.

Given the historical inefficiency of the courts (see section 1.e.), granting bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. Few defendants were granted bail, although bail became more common following implementation of the new Criminal Procedures Code, which requires judicial review of detentions at an earlier point in a criminal case.

Most detainees and prisoners did not have prompt access to a lawyer and could not afford adequate defense services. The National Office of Judicial Defense, with

foreign donor support, provided legal advice and representation to indigent persons. As of October the government's program to train public defenders had placed 80 public defenders in Santo Domingo, Santiago, and some smaller areas. The Supreme Court also paid 97 private lawyers across the country to provide part-time legal services to indigent defendants.

Police continued the practice of making sporadic sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals without warrant, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property, including motorcycles, other vehicles, and weapons. Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them.

There were no reports of political detainees.

Many suspects endured long pretrial detention. According to several reports, 66 percent of inmates were held without charges or while awaiting trial. The average pretrial detention was more than six months. Time served in pretrial detention counted toward a sentence.

Juveniles held at the Department for Minors at the Villa Juana police station commonly were held well beyond the 12-hour limit for sending the case to the district attorney's office. The law prohibits interrogation of juveniles by the police or in the presence of police; prosecutors and judges handle questioning.

The failure of prison authorities to produce the accused for court hearings caused a significant percentage of trial postponements (see section 1.e.). In addition inmates often had their court dates postponed because their lawyer or witnesses did not appear. The authorities held some inmates even though there were no formal charges against them.

A large backlog of criminal cases under the previous Criminal Procedures Code remained in the National District and throughout the country. The Supreme Court's plans to unclog the court dockets proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting inmates to court. Many cases were rescheduled when the accused or key witnesses did not appear. In some instances a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately prejudiced defendants who complied with the law.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, public and private entities continued to undermine judicial independence. The judiciary received training in the Criminal Procedures Code to help create and maintain professional standards, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle tax, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The government established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and adolescents. The Code for Minors outlines the judicial system for criminal cases involving juveniles and family disputes.

*Trial Procedures.*—The law provides for a presumption of innocence, the right of appeal, and the right to confront or question witnesses. The law establishes a citizen's right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

Citizens have recourse to the remedy of *amparo*, an action to seek redress of any violation of a constitutional right, including violations by judicial officials. This remedy was rarely used, except by those with sophisticated legal counsel.

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, some cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (see section 1.a.).

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law contains provisions against arbitrary entrance into one's home except when police

are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. Although all other entrances require a judge to issue an arrest or search warrant, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods.

Although the government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active illegal private wiretapping industry.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals or groups generally were able to criticize the government publicly and privately without reprisal.

Newspapers and magazines presented a variety of opinions and criticisms. There were eight daily newspapers, a number of weekly newspapers, and several online news outlets. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The government controlled one television station. International media were allowed to operate freely.

In February an editorial in a newspaper of limited circulation alleged that the government-operated Dominican Telecommunication Institute (Indotel) had suspended two television programs for criticizing a government project to construct a subway. Indotel denied this allegation.

There were occasional reports of harassment of journalists. In February two agents of the Metropolitan Transportation Police beat two photo journalists after they had allegedly run a red light. Witnesses said the transportation police used unwarranted force when one journalist attempted to take photos of the arrest of his colleague.

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

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly, but outdoor public marches and meetings require permits, which the government usually granted. On some occasions, when police officers used force to break up spontaneous demonstrations, they caused deaths and injuries, either to demonstrators or bystanders. In August police injured at least 10 demonstrators in Nagua who were seeking construction of basic city infrastructure. They also killed a 12-year-old bystander who received a shot in the head when police began shooting toward demonstrators.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The law prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat. For example the Cardinal has the rank of a military general officer, and there is a Catholic chapel at the presidential palace. The Catholic Church also received public funding to cover some church expenses such as rehabilitation of church facilities.

*Societal Abuses and Discrimination.*—Relations among different religious congregations were harmonious, and society was generally tolerant with respect to religious matters. However, because Catholics enjoy some special treatment, there was resentment by non-Catholic groups towards Catholics.

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

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the law provides for these rights, and the government generally respected these provisions in practice, there were some exceptions. For example human rights groups alleged that many Haitians were not allowed to leave the sugarcane plantations where they worked (see section 6.e.). Local and international human rights groups charged that there was discrimination against Haitian migrants and that they were subject to arbitrary and unjustified action by the authorities (see section 5).

The law prohibits forced exile, and there were no reports of its use.

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, and many of them were repatriated. Migration authorities and security forces conducted periodic sweeps throughout the year to locate and repatriate illegal migrants. Some of the Haitians removed from the country reported that they were denied the opportunity to demonstrate that they were legal residents, to make arrangements for their families or property, or to express a credible fear of persecution or torture if returned to Haiti. Migration officials and security forces sometimes destroyed and confiscated expellees' residency documents. In some cases expellees with appropriate legal documents received permission to return. Government officials stated that President Fernandez ordered the suspension of "mass repatriations" in June.

The constitution provides that anyone born in the country is a citizen, except those in transit or children born to diplomats. NGOs defending Haitians reported that children born of Haitian parents in the country often were denied registration as citizens under the transit exception, even when their parents had resided in the country for long periods of time (see section 5). In December the Supreme Court ruled that "in transit" status applied to children of illegal migrants.

The government's policy was that of strict enforcement of documentary requirements and repatriation of individuals found to be lacking documents. However, enforcement was selective and affected by dependence on Haitian labor for certain types of poorly paid work in agriculture and construction. Military officers and other officials exercised discretion, and many regularly collected bribes in return for releasing individuals suspected to be in irregular or undocumented status.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. This protection generally applied to individuals who gained access to the refugee process and had been issued proof that they were refugees or had applications pending. However, the government did not apply standards agreed upon with the office of the UN High Commissioner for Refugees (UNHCR) to improve receipt and adjudication of refugee claims. Although the UNHCR strengthened its protection activities in 2003 by re-establishing its presence in Santo Domingo, in July UNHCR withdrew its personnel and subsequently monitored migration and refugee issues from a regional office outside the country.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees, which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, with responsibility for the final decision on the application, includes the three members of the subcommittee, the legal advisor to the president and members from the National Police, the Ministry of Labor, and the Attorney General's Office.

As of October the Migration Directorate reported 267 applications awaiting decision, nearly all made by Haitians. Some of these cases had been pending since 2000. In April the National Commission for Refugees reviewed and granted asylum in five cases, three of which were submitted by members of the same family. This was the committee's first meeting in 10 years. According to the UNHCR, as many as 600 recognized refugees were living in the country, most of whom lacked documentation sufficient to obtain permission to work legally and to exercise other rights, such as obtaining documentation for their children.

The Union of Haitian Refugees in the Dominican Republic stated that authorities regularly issued Haitians requesting asylum a migration document, which the petitioners must renew every two months. The document cost approximately \$8 (250 pesos), a fee collected upon every renewal. The organization considered the document to be worthless because even Haitians bearing it were arrested and repatriated.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. Active duty police and military personnel may not vote or participate in partisan political activity.

*Elections and Political Participation.*—In 2004 PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organi-

zation of American States, the National Democratic Institute, and the International Foundation for Electoral Systems, as well as by the government electoral board and the nongovernmental organization (NGO) Citizen Participation.

By law parties must reserve for women 33 percent of positions on their lists of candidates for the Chamber of Deputies and city councils; in practice the parties often placed women so low on the lists as to make their election difficult or impossible. Women held three cabinet posts in the Fernandez administration. There were 2 women in the 32-member Senate, 24 women in the 150-member Chamber of Deputies, and 5 women on the 16-seat Supreme Court.

*Government Corruption and Transparency.*—There were reports of, and a widespread perception of, corruption in government. The authorities lodged charges against a number of officials from the previous administration and individuals who had done business with them, and the courts convicted some of them.

In April the president appointed a Government Ethics and Anti-Corruption Commission with authority to receive allegations of corruption within the government and channel the complaints to the offices that had authority to investigate.

In 2004 Congress passed and the president promulgated a comprehensive law providing public access to government information. It allows limits on the availability of public information only under specified circumstances (such as to protect national security) and provides for a penalty of up to six months to two years in prison and a 5-year ban from positions of public trust for government officials who obstruct access to public information. A court may review the decision of an agency to deny access to information.

In September Congress ratified a free trade agreement that requires measures to prevent corruption in trade matters and to enhance transparency of government procurement.

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

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

Principal local groups included the Dominican Human Rights Committee, the National Human Rights Commission, and the Santo Domingo Institute of Human Rights. There were also several smaller organizations, both secular and religious, that addressed, among other things, women's rights, labor issues, and the rights of Haitians.

Even though a 2001 law created a human rights ombudsman's office with authority over public sector problems involving human rights, the environment, women's issues, youth issues, and consumer protection, selection of an ombudsman remained pending at year's end.

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

Although the law prohibits discrimination based on race and gender, such discrimination existed, and the government seldom acknowledged its existence or made efforts to combat it.

*Women.*—Domestic violence continued to be a serious problem. Under the Law against Domestic Violence, the state can prosecute rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and fines ranging from approximately \$20 to \$7 thousand (600 to 210 thousand pesos). Several newspaper articles alleged that society had become more violent, and many government officials and NGOs publicly denounced the problem. However, a lack of awareness and training of police, prosecutors, and investigators hampered action against crimes of domestic violence (as well as other types of crime). A local NGO estimated that 24 percent of women between the ages of 15 and 49 had been victims of physical abuse. According to the Secretariat of Women, from January to July, 94 women were killed in "crimes of passion" by their spouses or lovers, compared with 117 such victims in all of 2004.

The Secretariat of Women, as well as various NGOs, conducted outreach programs on domestic violence and legal rights. The Non-Violence Department of the Secretariat of Women received approximately 388 complaints of domestic violence during the year.

Female victims of abuse had few resources, although the NGO Piedra Blanca operated a shelter for battered women, and the Secretariat of Women supported operation of a center for victims of domestic violence in Bani, where victims of abuse could make a report to the police and receive counseling. In August the Attorney General's Office created the National Advisory Directorate for Victims, which coordi-



nates efforts of official and nongovernmental institutions that offer services to victims of violence including domestic and sexual abuse.

Rape was a serious and widely underreported problem. The penalties for committing rape are 10 to 15 years in prison (or 10 to 20 years in case of rape against a vulnerable person or under other egregious circumstances) and a fine of approximately \$3,300 to \$6,600 (100 thousand to 200 thousand pesos). The state may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. In 2002, the last year for which official statistics were compiled, the Secretariat of Women reported more than 3,300 complaints of sexual abuse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Prostitution is legal, although there are some prohibitions against sex with minors, and it is illegal for a third party to derive financial gain from prostitution. However, the government usually did not enforce prostitution laws. Sex tourism was a serious problem in Sosua and Boca Chica. Human rights groups reported continuing prostitution in sugarcane work camps and areas outside of the capital. NGOs conducted programs on prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups. Trafficking in women and children was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace, which was considered a misdemeanor and carried a possible penalty of 1 year in prison and a fine of up to \$333 (10 thousand pesos); however, union leaders reported that the law was not enforced, and sexual harassment was a problem.

Although the law provides that women have the same legal status as men, in practice women experienced discrimination. Traditionally, women have not enjoyed equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances women were paid less than men in jobs of equal content and requiring equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders reported that pregnant women often were not hired, and that female employees who became pregnant sometimes were fired. There were no effective government programs to combat economic discrimination against women.

*Children.*—The government declared its commitment to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. The Code for Minors, which was implemented in October 2004, established the National Council for Children and Adolescents (CONANI) as a noncabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the code. While the law stipulates that CONANI is to receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets must be devoted to projects to benefit children, this requirement was not met.

Education is free, universal, and compulsory for all minors through the eighth grade, but legal mechanisms provide only for primary schooling, which was interpreted as extending through the fourth grade. Although the Ministry of Education reported a 97 percent enrollment rate in grades 1 through 8 in 2004, a government study also estimated that the average grade level achieved by children in public schools was the fifth grade in rural areas and the sixth grade in urban areas. Children of Haitian descent, and those of undocumented citizens, experienced difficulties gaining acceptance to school due to their lack of official status (see section 5, National/Racial/Ethnic Minorities).

There were several government programs to provide medical care for children in public hospitals, but these programs, as well as all other medical programs, faced severe budget limitations.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. According to a CONANI employee, the Santo Domingo District Attorney's Office received up to 25 reports of child abuse per day. CONANI asserted that 3 of every 10 children in Santo Domingo had been sexually abused. Few such cases reached the courts due to fear of family embarrassment, lack of economic resources, or lack of knowledge regarding available legal assistance. The Santo Domingo District Attorney's Office reported that in 85 percent of abuse cases, the accused was a person close to the child, such as a family member or close family friend. The law provides for removal of a mistreated child to a protective environment.

In February CONANI asked the attorney general to carry out an investigation of Hogar Luby, a home for disabled children in Santo Domingo, based on allegations

of child abuse, neglect, and misuse of funds. As of September the owner of the home had gone into hiding, and the investigation was inactive.

In a highly publicized October 2004 case, 12 persons were accused of sexually abusing at least 29 young children at a shelter in Higuey. They were held in preventive detention, and in March two of the accused died in the Higuey prison fire (see section 1.c.). In July a judge of instruction dismissed the charges, and the attorney general appealed the dismissal. At year's end six of the accused were free on bail, one had died from heart failure, and the remaining three suspects were in detention awaiting the outcome of the appeal.

According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. The law contains strengthened provisions against the problem areas of child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (see sections 5, Trafficking and 6.d.). The law provides penalties of between two and five years' incarceration and a fine of three to five times the monthly minimum wage for persons found guilty of abuse of a minor. The penalty is doubled if the abuse is related to trafficking.

Trafficking and sexual exploitation of children within the country were problems, particularly in popular tourist destinations (see section 5, Trafficking). Adolescent girls and boys from poor families sometimes were enticed into performing sexual acts by the promise of food or clothing.

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

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that women and children were trafficked to, from, and within the country.

The law includes penalties for traffickers of 15 to 20 years' imprisonment and a fine of up to 175 times the monthly minimum wage. The Code for Minors provides penalties for sexual abuse of children of 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage.

The attorney general's antitrafficking unit coordinated the investigation and prosecution of trafficking cases. Units at the National Police, the Migration Directorate, and the Attorney General's Office targeted trafficking in persons, as did the inter-agency Committee for the Protection of Migrant Women. The Migration Directorate created an antitrafficking department, which coordinates with the Attorney General's Office and the National Police to find and prosecute persons dedicated to trafficking women for prostitution and commercial sexual exploitation.

The International Organization for Migration (IOM) estimated that 50 thousand Dominican women worked in prostitution around the world and of these women, one third were victims of trafficking.

Principal destination countries were in Europe, the Caribbean, and Latin America, and included Argentina, Australia, Austria, Brazil, Costa Rica, Germany, Greece, Italy, the Netherlands, Panama, Spain, St. Maarten, and Switzerland. Japan became a new destination for trafficking, while traffickers in the Caribbean strengthened their networks. Women 18 to 25 years of age were at the highest risk of being trafficked. Many victims were uneducated single mothers desperate to improve the living conditions of their children.

Within the country, the prostitution of minors, primarily in the tourist areas, was a problem. An official 2003 study estimated that 50 to 60 Haitian children were trafficked into the country each week and that many Haitian girls age 12 and older were brought into the country to work as prostitutes.

In April DNI dismantled a child prostitution and pornography ring in Sosua that had posted sexually explicit photos of young children on the Internet. Police arrested two men. At the request of the attorney general, police closed down several bars, nightclubs, and "massage parlors" in Santiago, Santo Domingo, and Boca Chica used for child prostitution and sexual exploitation of women.

In May a judge convicted and sentenced 3 men to 15 years in prison under the antitrafficking law for sexually exploiting 24 children in Boca Chica in 2004. As of October a fourth suspect was in detention and awaiting trial.

NGOs estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to the NGO Center for Integral Orientation and Investigation (COIN) and the IOM, trafficking organizations were typically small groups. Individuals in the country recruited the persons to be trafficked and obtained identification and travel documents. Traffickers frequently were introduced to women through friends and family; they promised some form of employment, obtained false or legitimate documents for the women, and often retained their passports once in the destination country. Trafficking organizations reportedly

received \$5 thousand to \$8 thousand (150 thousand pesos to 240 thousand pesos) for trafficking a woman for purposes of prostitution.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Europeans overseas marketed tours by suggesting that boys and girls could be found as sex partners.

In March the Supreme Court resumed proceedings in the trial of Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien, Haiti) on charges of alien smuggling. Because of Ramos Garcia's status as a congressman, the case was assigned directly to the Supreme Court. The Supreme Court found Ramos guilty and sentenced him to 18 months in prison. He was paroled in October after completing nine months and eight days of his sentence, including periods of pretrial detention. Two co-defendants were found guilty and sentenced to time served.

The government made efforts to investigate, fire, and prosecute when appropriate public officials who facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (see sections 2.d. and 6.c.). There were also elements within the Migration Directorate and the National Police that organized or facilitated the smuggling of aliens through the international airports.

The government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. When trafficked individuals were repatriated from abroad, they were given a control record that went into their official police record and were interviewed by a migration inspector. According to COIN, most victims were too embarrassed or frightened to seek legal action against traffickers and victims received no psychological counseling. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar populations. There were several church-run shelters that provided refuge to children who escaped prostitution.

COIN and the IOM counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

*Persons with Disabilities.*—Although the law prohibits discrimination against persons with disabilities, they encountered discrimination in employment and in the provision of other services. While the law provides for physical access for persons with disabilities to all new public and private buildings, the authorities did not enforce this law. The Dominican Association for Rehabilitation, which has 17 branches around the country, receives a subsidy from the Ministry of Public Health to provide rehabilitation assistance to persons with disabilities. Little effort was made to design public works to accommodate persons with disabilities.

Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

CONANI charged that a home for disabled children was abusing and neglecting them. As of October authorities were investigating the case (see section 5, Children).

*National/Racial/Ethnic Minorities.*—There was racial prejudice targeting persons of dark complexion, but the government did little to address the problem. As a result, acts of discrimination were common, ranging from the petty to the more serious. In particular there were strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion (see sections 1.d. and 2.d.). Few government officials acknowledged the existence of this discrimination; others regularly and publicly asserted that there was no discrimination against Haitians or other persons of dark complexion.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made life more difficult for those Haitians already in the country legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see section 1.d.).

The IOM estimated that approximately 650 thousand Haitian immigrants—or 7.5 percent of the country's population—lived in shantytowns or sugarcane work camps known as *bateyes*, which were harsh environments with limited or no electricity, usually no running water, and no adequate schooling. Although some Haitians were brought to the country specifically to work in sugarcane camps, many had no documentation. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions in *bateyes* as modern-day slavery. In most *bateyes*, medical assistance either was rudimentary or not readily available. Housing in the *bateyes* was poor; many individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of 5 or more shared living quarters that measured as little as 10 by 9 feet. Bathroom facilities, where available, were generally unhygienic, and cooking facilities were usually improvised. The availability of fresh food, including fruits and vegetables, was severely limited. Clean water was often unavailable.

Some individuals estimated that as many as one million Haitians lived in the country, many illegally, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti and their offspring born in the Dominican Republic. The civil registry authorities regularly refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see section 2.d.). Since many Haitian parents never possessed documentation of their own births, they were unable to demonstrate their own citizenship or that of their children.

On October 8, the Inter-American Court of Human Rights found against the government in a case brought on behalf of two Dominican girls of Haitian ancestry to whom government registrars had refused to provide birth certificates. Plaintiffs had lodged the case with the Inter-American Human Rights Commission in 1998, and when mediation failed to achieve an amicable solution in 2001, including changes to laws and procedures, the commission referred the case to the court. A December 12 press release quoted the foreign minister as saying that even though the verdict against the country was unjust, the country would pay as instructed by the court.

Although a legal ordinance allows undocumented children to attend school through the fifth grade, some school administrators denied undocumented children access to school, particularly those who appeared to be of Haitian ancestry. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children.

When permitted to attend primary school, the children of poor Haitian parents, like poor Dominican children in the same *bateyes*, rarely progressed beyond the sixth grade.

*Other Societal Abuses and Discrimination.*—Persons with HIV/AIDS, particularly women, faced discrimination in the workplace and elsewhere. An estimated 50 thousand to 100 thousand persons in the country were infected with the disease. According to Human Rights Watch, workers in many industries faced involuntary HIV testing in the workplace or when seeking medical care or medical insurance. Workers or patients found to have the disease could be fired from their jobs or denied adequate healthcare. Although the law prohibits the use of HIV testing to screen employees or for medical services unrelated to the disease, this law rarely was enforced.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to form and join unions of their choice. Organized labor represented an estimated 8 percent of the work force. The law calls for automatic recognition of a union if the government has not acted on its application within 30 days.

Although the law forbids companies to fire union organizers or members, it was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of harassment and intimidation by employers in an effort to prevent union activity, especially in the free trade zones (FTZs) (see section 6.b.). The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) reported additional incidents of antiunion activity at the FM company in Santiago, 1 of 13 production facilities belonging to apparel manufacturing firm Grupo M, one of the largest private sector employers in the country. FM company management conducted a public campaign against union organizers and affiliates, which included the creation of a rival union favoring company policies. As of October, a decision on the legality of this group was pending.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is legal and must be used in firms in which a union has gained the support of an absolute majority of the workers. Few companies have collective bargaining pacts, and the

International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining.

The law establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, the process was often long and cases remained pending for several years.

The law provides for the right of most workers to strike (and for private sector employers to lock out workers), but formal strikes were not common. Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike.

Government workers and essential public service personnel are not allowed to strike. Despite this prohibition, government-employed physicians of the Dominican Medical Association went on strike repeatedly throughout 2004 and during the first half of the year for periods ranging from one day to one week, insisting on salary increases and improvements in resources for government-run hospitals. The health minister and eventually the president became directly involved in these labor negotiations. The government did not propose any sanctions against those who had disregarded the legal prohibition on strikes. In October the president and health minister signed an agreement with the Dominican Medical Association president, undertaking, among other items, to provide salary increases in 2007. The agreement met the association's principal demands.

A few labor unions represented a small number of Haitian workers, who are covered by the Labor Code regardless of legal status. Various NGOs reported that the majority of Haitian laborers in the sugar and construction industries did not exercise their rights, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 175 thousand workers. According to the National Council of Labor Unions, only four of the unions that had achieved collective bargaining agreements in the FTZs were active. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better and the pay was occasionally higher. Mandatory overtime was a common practice, and it was sometimes enforced through locked doors or loss of pay or employment for those who refused (see section 6.c.).

There were reports of widespread covert intimidation by employers in the FTZs in an effort to prevent union activity (see section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or FEDOTRAZONAS (see section 6.a.). FEDOTRAZONAS estimated that less than 10 percent of the workers in the FTZs were unionized. Employer resistance to union organization, especially in the FTZs, increased in response to growing competitive pressure from firms in Asia. Industry observers estimated that 30 thousand jobs had been lost in the sector as a result.

Many of the major manufacturers in the FTZs had voluntary codes of conduct that included worker rights protection clauses generally consistent with the ILO Declaration on Fundamental Principles and Rights at Work. Workers were not always aware of such codes or the principles they contained.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5). Some young children, particularly Haitians, were “adopted” by families and worked under a kind of indentured servitude (see section 6.d.). There were also reports that workers in sugarcane plantations were prevented from leaving during the harvest (see section 6.e.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While the law prohibits employment of children less than 14 years of age and places restrictions on the employment of children under the age of 16, child labor was a serious problem. The Central Bank's Statistics Department estimated that 15 percent of children between the ages of 14 and 17 engaged in some sort of work. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children. While the government effectively enforced these regulations, child labor was largely a problem in the informal sector beyond regulatory reach.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, sugarcane fields, and places of prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. There was evidence that poor Haitian and Dominican adolescents accompanied their parents to work in sugarcane fields, with the tacit approval of sugar companies. Children 12 years old and younger also worked planting sugarcane, earning as little as \$1 (30 pesos) for a full day of labor.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange the birth parents received monetary payment or a supply of clothes and food. In many cases adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted in a kind of indentured servitude for children and adolescents.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs to eliminate child labor in the tomato-producing province of Azua, the coffee-growing province of San Jose de Ocoa, and the agricultural province of Constanza, and a program to combat the commercial sexual exploitation of minors in popular tourist destinations. The Ministries of Labor and Education continued to support the Combating Child Labor through Education Program, which established several camps that hosted more than one thousand children and adolescents. An ILO and Ministry of Labor program in Boca Chica to combat commercial sexual exploitation of minors provided psychological support and medical assistance, returned children to classrooms, and reunited children with their families and communities whenever possible. The program also provided legal assistance to child victims in order to arrest and convict exploiters. The Ministry of Education provided a subsidy of \$17 (500 pesos) monthly to the poorest families to keep their children in school and away from work. The Armed Forces sponsored a program to rescue, supervise, and rehabilitate victims of child labor or those at risk and operated several walk-in programs and a permanent "village" that provided room, board, and educational activities.

There were no confirmed reports of forced child labor in the formal sector.

*e. Acceptable Conditions of Work.*—The executive branch sets minimum wage levels for public workers, and the National Salary Committee sets levels for the private sector, with the exception of workers in the FTZs and the sugar, construction, hotel, and shoe manufacturing industries. The minimum monthly salary was approximately \$119 (3,561 pesos) in the FTZs and \$164 (4,920 pesos) outside the FTZs. The minimum wage for the public sector was approximately \$64 (1,906 pesos) per month. The minimum wage for farm workers who are covered by minimum wage regulations was approximately \$0.43 an hour (13 pesos), based on a 10-hour day. The national minimum wage did not provide a decent standard of living for a worker and family.

The law establishes a standard work period of 44 hours per week and stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. The law provides premium pay for overtime, which was mandatory at some firms in the FTZs.

On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Observers suspected fraud at some weighing stations, and noted that employers sometimes did not provide trucks or carts to transport the newly cut cane at the end of the workday, causing workers to receive lower compensation because the cane dried out and weighed less. The amount of cane a worker could cut varied, but many cane cutters earned less than \$2.50 (75 pesos) per day. Workers were paid every two weeks with tickets that were exchangeable for cash only in centers that often were far away. Workers who used the tickets to purchase items at private stores located on the plantations often had to pay a 10 percent "service charge." Starting in December, however, workers were no longer paid in tickets but directly in cash.

Conditions for agricultural workers were poor, particularly in the sugar industry. Most sugarcane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. Company-provided housing was sub-standard (see section 5). Approximately 83 percent of sugarcane workers were Haitian or of Haitian descent. In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving until the end of the harvest. Employers also withheld wages to keep workers

in the fields. Sugarcane workers often did not receive medical services or pensions due them even though deductions were taken from their pay.

The Diocese San Pedro de Macoris developed a proposed model work contract and submitted it to the Vicini Consortium and other companies in 2001. The companies did not adopt the contract, but the consortium continued to improve working and living conditions of sugarcane workers. The Diocese continued to promote Haitian worker rights in the *bateyes* and to seek a work contract for Haitian workers. Officials of the association of sugar industries regularly criticized the priest heading this effort, and newspapers carried unfounded allegations that he had encouraged workers to destroy property.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 185 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors typically took bribes from businesses. Workers complained that inspectors were not trained and did not respond to health and safety complaints. While the law requires that employers provide a safe working environment, in practice workers could not remove themselves from hazardous working situations without losing their jobs.

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## ECUADOR

Ecuador is a constitutional republic with a population of approximately 13 million. In 2002 voters elected Lucio Gutierrez president in generally free and fair elections. In April following large-scale protests in Quito and the public withdrawal of support by the military, Congress voted to remove President Gutierrez. Vice President Alfredo Palacio assumed the presidency to finish Gutierrez's term. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were serious problems in some areas. The following human rights problems were reported:

- unlawful killings and use of excessive force by security forces
- torture, abuse, and killing of suspects and prisoners by security forces, often with impunity
- poor prison conditions
- arbitrary arrest
- high number of pretrial detainees
- corruption and denial of due process within the judicial system
- attacks on those publicly critical of former President Gutierrez
- violence against women
- pervasive discrimination against women, indigenous people, Afro-Ecuadorians, and homosexuals
- trafficking in persons and sexual exploitation of minors
- widespread child labor

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government or its agents did not commit any politically motivated killings, there continued to be credible reports that security forces used excessive force and committed unlawful killings.

On August 5, police arrested Washington Enrique Vilela Barra and Luis Antonio Cevallos Barre. The bodies of the two detainees were found the following day. A police court judge ordered the detention of police officer Freddy Abel Rizzo Barzola and a case against him in the police courts continued. Another officer involved remained a fugitive at year's end.

On September 13, media outlets and the Ecumenical Human Rights Commission (CEDHU) reported that military officers patrolling the northern province of Sucumbios opened fire with no warning on a vehicle, killing Servio Pena Jimenez and seriously injuring Ramon Zamora Zamora. The district attorney charged four army officers in the case: Angel Chuya, Carlos Badillo, Benito Tangamashi and

Jorge Zamora. Military authorities detained the four officers and the Sucumbios attorney general initiated the formal investigation.

There were no developments in the March 2004 killing of Luis Alfonso Ortiz Rodriguez. The policeman who killed Ortiz while investigating a domestic dispute remained in prison pending an investigation to determine whether the killing was accidental.

There were no developments in the July 2004 investigation of the alleged police killing of Erik Fabricio Lopez Yanez. The policeman and his brother remained in jail pending the outcome of the investigation.

In the 2003 Fybeca case in which police shot and killed eight persons in a drugstore in Guayaquil and subsequently arrested three persons who disappeared, a police court absolved police Sergeant Sergio Gaybor of guilt in February (see section 1.b.).

There were reports that prison guards killed inmates during the year (see section 1.c.).

There were cases of mob violence against suspected criminals, which occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence (see section 1.e.). However, CEDHU reported that there were fewer incidents of mob violence than in years past.

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

In 2003 Jhonny Gomez, Cesar Mata, and Edwin Vivar disappeared after police detained them during a robbery of a Fybeca drugstore in Guayaquil. Although police denied holding the men, newspaper photographs showed a policeman and a former policeman leading a man away from the scene with his face covered. In April and May 2004 the widows of the three and a local journalist were threatened. Police courts acquitted all 21 suspects, including police sergeant Sergio Gaybor in February (see section 1.a.).

Criminal kidnapping for profit continued to be a problem throughout the country. There were also reports of extortion and threats of kidnapping of ranchers, farmers, and businessmen along the northern border with Colombia. By year's end police registered 92 individuals arrested for kidnapping; however, there were no reliable estimates of the total number of such extortions or kidnappings, often attributed to Colombian armed gangs, since many victims did not report the crimes for fear of retribution.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the law prohibits torture and similar forms of intimidation and punishment, some police continued to torture and abuse suspects and prisoners, often with impunity.

In November the UN Committee Against Torture announced that the country's laws on torture do not meet standards set within the UN's Convention Against Torture. The UN reported that violators of human rights often were penalized with a fine, rather than incarceration.

Through December CEDHU registered alleged cases of torture by security forces involving 24 victims. In most cases, the security forces appeared to have abused such persons during investigations of ordinary street crime or because of a personal grudge. The victims reported that the security forces beat them and threatened them.

On March 25, transit police arrested and detained Roland Montoya Chavez for not carrying his driver's license while driving. According to a credible nongovernmental organization (NGO), police beat Montoya on March 25 and 26 in front of other prisoners who signed a statement that they witnessed the abuse. Police authorities detained officer Christian Duque for 24 hours as stipulated under police regulations.

Police academy students accused police lieutenants Javier Proano and Javier Torres of beating, insulting, and inflicting other physical injury on up to 160 police academy students since March. Police authorities decided the accusations against the two officers were false after an investigation in which no students testified.

The Popular Combatants Group and the Peoples' Revolutionary Militia continued to detonate small pamphlet bombs, principally in the major cities. There were no reported serious injuries.

*Prison and Detention Center Conditions.*—Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands. Overcrowding was a chronic problem in most facilities. According to the National Social Rehabilitation Board (CONAR), as of December 12,394 prisoners nationwide were held in facilities built to hold 7,463. A number of prisons experienced serious outbreaks of disease, and medical care often was inadequate. The daily amount allocated for prison rations was one dollar per inmate. Strikes by prisoners in various centers were frequent during the year.



CONAR reported that 45 prisoners died through December, compared with 58 in 2004. Thirteen resulted from illness, 17 resulted from serious injury, 4 were suicides, and 11 did not have causes attributed. According to a credible NGO, in September prison guards shot and killed inmates Johnny Garcia, Luis Mora, Juan Cajape, and Jaime Sanchez in the Guayaquil prison. While the guards accused the inmates of attempting to escape, other inmates refuted this account and testified that the guards had beaten the four inmates before killing them. An investigation initiated by the attorney general was ongoing at year's end.

Conditions were notably better in the women's prison in Quito than in men's facilities. Approximately 400 children of female inmates lived in prison with their mothers at year's end. Pretrial detainees were held with convicted prisoners.

Although the government permitted prison visits by independent human rights observers in most instances, in some cases, human rights observers were not permitted to visit prisoners who had been placed in isolated cells after they allegedly had been beaten.

*d. Arbitrary Arrest or Detention.*—While the law prohibits arbitrary arrest and detention, the authorities at times violated these prohibitions in practice.

*Role of the Police and Security Apparatus.*—The National Police are under the authority of the Ministry of Government. The effectiveness of the National Police was uneven, in part, due to its insufficient training, supervision, and resources. Some municipalities, such as Quito and Guayaquil, have their own metropolitan police forces in addition to the National Police. A police internal affairs office investigates complaints against police officers and can refer cases to the police courts. NGOs claimed that members of the Quito and Guayaquil metropolitan police occasionally used excessive force. Police corruption was sometimes a problem. The former chief director of the National Police was under investigation for allegedly facilitating alien smuggling.

The National Police contracted with NGOs to provide human rights training. A 2004 Amnesty International report continued to criticize the use of the police court system, which resulted in impunity for police officers who committed human rights violations.

*Arrest and Detention.*—The law requires authorities to issue specific written arrest orders within 24 hours of detention, and authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. Within 48 hours of arrest, all detained persons may challenge the legality of their detention by petition to the senior elected official of the locality in which detention takes place. However, few such petitions were made in practice.

In the case of an illegal detention, mayors have the right to release the detainee. Otherwise, a prisoner may be released only by court order. In some cases detainees who are unaware of this provision, or who do not have the funds to hire a lawyer, may remain in prison for an extended period without being tried before being released. Bail generally was not available, and the law prohibits it in cases of narcotics and major offenses (offenses that “affect or put at risk” the public, punishable by 3 to 35 years' imprisonment).

Although the law entitles detainees to prompt access to lawyers and family members, delays varied depending on the circumstances and officials' willingness to enforce the law; alleged narcotics traffickers commonly waited 24 to 48 hours for these visits. Detainees with sufficient resources often bribed prison officials to facilitate access.

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. Even when police obtained a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges.

There were no reports of political detainees.

Investigative detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented. The law limits immediate detention to 24 hours for *in flagrante* crimes or to allow for investigative detention. Preventive detention is limited to 6 months for minor offenses and 12 months for major offenses. However, the law permits prisoners to be held for an indefinite period after indictments have been issued but before they have been convicted or sentenced. The majority of the accused remained in prison during the investigation phase. More than 60 percent of the detainees in jail had not been sentenced, and approximately 10 to 15 percent had been tried, but not sentenced.

*e. Denial of Fair Public Trial.*—While the law provides for an independent judiciary, in practice, the judiciary was susceptible to outside pressure and corruption.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the constitution and other laws, and the Judicature Council, which is charged with administering the court system and disciplining judges. There also are military and police tribunals that have the same status as circuit courts, as well as criminal, provincial, and cantonal (county) courts. The Supreme Court supervised the selection by open competition of all appellate judges.

In February the Inter-American Commission on Human Rights held a general hearing on the appeal brought by 27 justices of the Supreme Court who were replaced by Congress in December 2004. The commission did not reach a decision on the petition's admissibility, and there were no further developments by year's end. President Gutierrez dissolved the court days before his ouster in April following the court's decision to drop corruption charges against two former vice presidents and former President Abdala Bucaram. In May Congress passed legislation to select a commission to designate a new court and in November the commission named a new Supreme Court in a process widely viewed as transparent. The Constitutional Tribunal has been dissolved since December 2004.

*Trial Procedures.*—Despite ongoing efforts to modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure or, in some cases, the payment of bribes. The failures of the justice system contributed to cases in which communities took the law into their own hands, such as mob violence against suspected criminals (see section 1.a.).

There are no juries in the justice system. Defendants are presumed innocent until proven guilty and have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice only 32 attorneys were available to defend the large number of impoverished suspects throughout the country.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court often did not pursue cases or announce verdicts and punishments, reinforcing the impression that police were immune from prosecution. While the constitution places both police and military justice under the regular judicial system, the systems remained separate.

Although the law recognizes indigenous communities' right to exercise their own system of justice based on their traditions and customs, it does not specify its implementation. This parallel system raised questions of both jurisdiction and conformity to the right to a fair trial.

*Political Prisoners.*—There were no reports of political prisoners, although some alleged that former President Gutierrez was being held in preventive detention as a political prisoner (see section 2.a.).

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

Although wiretapping by the national police to investigate crimes is legal with a court order, there is no specific procedural guidance for obtaining such approval.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—While the law provides for freedom of speech and of the press, and the government generally respected these rights in practice, there were some significant exceptions. Some individuals who publicly criticized former President Gutierrez were violently attacked as a result, and in most cases, there were no arrests. Gutierrez also publicly vilified the media and called press freedoms excessive. Government relations with the media improved under President Palacio. There were no high profile cases of public figures bringing criminal charges against journalists during the year.

On January 26, persons active in the University Leftist Revolutionary Front, an armed group with ties to the MPD political party, violently attacked former vice president Leon Roldos Aguilera while he was giving a speech at the Central University. While an initial investigation identified the planners of the attack and initiated an indictment, the Criminal Court had yet to decide the case by year's end.

On February 4, a dynamite attack on the Radio Canela radio station in Macas resulted in substantial property damage. Station owner Wilson Cabrera claimed the attacks were the result of his station's criticism of the government. While there were no arrests in this case by year's end, a preliminary investigation continued.

On March 7, 80 members of the pro-Gutierrez movement "Zero Corruption" invaded and vandalized the offices of the NGO Citizen Participation. The prosecutor decided not to proceed with the case and there were no arrests as of year's end. Citizen Participation appealed to a local criminal judge, and a public hearing was pending.

On March 22, Oswaldo Gallo, a reported member of "Zero Corruption" attacked president of the Federation of Judicial Workers Luis Munoz. Despite the initiation of a penal process against Gallo, the head of the Supreme Court at the time ordered that Gallo be freed, and the investigation was discontinued.

Civil liberties were suspended on several occasions by the government in declarations of emergency targeting specific regions. President Gutierrez declared a state of emergency in Quito on April 15 lasting less than 24 hours, which included suspension of certain civil rights, including freedom of speech and expression. On August 17, President Palacio decreed a state of emergency in the northeastern provinces of Sucumbios and Orellana (see section 2.b.). The decree's measures included suspension of freedom of expression and association, which largely were not enforced.

Following former President Gutierrez's ouster in April, he made statements abroad claiming to be the country's legitimate leader. Because of these statements, authorities charged him with undermining the security of the state. Upon his return to the country in October, Gutierrez was placed in preventive detention where he remained at year's end.

Government censorship and self-censorship occurred in both the print and broadcast media, particularly with respect to politically sensitive issues or stories about the military and industries connected with the military.

Most elements of the media also were influenced by economic considerations and tended to reflect the narrow, regional interests of their owners. Business and private interest pressures on the media sometimes constrained freedom of the press.

The government invoked a law obliging the print media to provide it free space and requiring television and radio to broadcast government-produced programs featuring the president and other top administration officials.

There were no developments in the September 2004 case concerning President Gutierrez's request that the Public Ministry conduct a formal inquiry into allegations by prominent radio director Diego Oquendo that Gutierrez accepted money from a Colombian guerilla group.

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

#### *b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—Although the law provides for freedom of peaceful assembly, and the government generally respected this right in practice, security forces used force and tear gas to quell some violent demonstrations, resulting in one death and several injuries.

Public rallies require prior government permits, which generally were granted, although exceptions occurred.

During the year numerous labor, indigenous, and student demonstrations took place in the capital and the outlying regions.

On March 10, police entered the Amazonas School in Quito and shot tear gas at protesting students. According to a credible NGO, one tear gas canister hit the face of 17-year-old Kirmar Cantuna and entered his skull, causing serious injury. Cantuna's family reached an out of court settlement with the Ministry of Government and did not press charges.

On March 11, police entered the Jorge Mantilla Ortega School in Quito to break up a protest. According to a credible NGO, the police pushed Sandra Chica from a second story window, and she sustained serious injuries. An initial investigation by the attorney general was underway at year's end.

In April large-scale protests in Quito led to the ouster of President Gutierrez. The Red Cross reported that 417 persons were injured during these protests, mainly due to inhalation of tear gas. In August there were also widespread protests in the Amazonian provinces of Orellana and Sucumbios.

On April 13, Congressional guards placed Roberto Navas and other student protesters in a police van where they beat the students, according to a credible NGO. The police also reportedly sprayed tear gas in the students' faces and mouths and threatened to rape them. After intervention from CEDHU, the officials released the students. There was no formal complaint filed and no investigation of this case.

On April 19, Chilean journalist Julio Garcia Romero, who was covering the anti-Gutierrez protests, had a heart attack after being exposed to tear gas. The case remained under investigation at year's end.

On August 15, residents and civic leaders of Sucumbios and Orellana began a strike to demand that oil revenues from the region be dedicated to domestic infrastructure, higher wages, and new jobs. The strikes prompted President Palacio to decree a state of emergency on August 17, allowing the suspension of constitutional rights in the two provinces and ordering soldiers into the region. Police and army forces used tear gas, water cannons, and mass arrests to quell demonstrations in Nueva Loja and injured several persons. Soldiers also detained between 40 and 50 protesters who were attempting to seize a Petroecuador station (see sections 2.a. and 6.a.).

In October and November members of the Confederation of Indigenous Nationalities of Ecuador (CONAIE) demonstrated in Quito. Police used tear gas, detained protesters, and prevented buses carrying additional protesters from entering the city (see section 5).

There were no new developments in the February 2004 case in which the military shot four protesters (one of whom later died) who were participating in a demonstration by indigenous people (see sections 1.a. and 5).

Protesters often blocked roads. Security forces generally intervened in demonstrations only when there was violence against bystanders or destruction of property.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

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

*Societal Abuses and Discrimination.*—The country had a small Jewish population. There were no reports of societal abuses or discrimination, including anti-Semitic acts, during the year.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice. Protesters often blocked roads (see section 2.b.). Men must show proof of having completed military service or pay a fine to leave the country. Children must have a notarized letter from a parent to travel unaccompanied.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The UN High Commissioner for Refugees (UNHCR) also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Approximately 97 percent of refugee applicants were Colombians. According to the UNHCR, the majority of displaced Colombians were poor farmers or businesspersons with minimal education fleeing fighting in Colombia. The law allowed persons granted refugee status to work. The Foreign Ministry changed the format of new IDs issued to asylum seekers so that they no longer explicitly prohibited work.

UNHCR officials noted that growing anti-Colombian sentiment discouraged many Colombian refugees from formally seeking asylum. UNHCR began training police officials to refer such cases to the foreign ministry.

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

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

*Elections and Political Participation.*—In 2002 voters selected Lucio Gutierrez in the second-round presidential election. Election observers from the OAS, the European Union, the local NGO Citizen Participation, and other international groups termed the elections generally peaceful, free, and fair. In April following large-scale protests in Quito and the public withdrawal of support by the military and the national police leadership, Congress voted to remove President Gutierrez. Vice Presi-

dent Alfredo Palacio assumed the presidency to finish Gutierrez's term. Upon his return to the country in October, Gutierrez was placed in preventive detention for "undermining the security of the state" for statements he made while abroad claiming to be the country's legitimate leader.

There were 15 women in the 100-seat Congress and 3 women in the cabinet. There was 1 Afro-Ecuadorian member in the 100-seat Congress.

The pro-indigenous Pachakutik political movement had 10 members in Congress and was associated closely with the politically active Confederation of Ecuadorian Indian Nationalities (CONAIE). There was one indigenous member of the cabinet.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption in all areas of the government. Transparency International's annual Corruption Perceptions Index indicated that corruption was a "severe" problem, although slightly improved compared with the previous year.

According to newspaper reports, approximately four thousand Chinese immigrants obtained Ecuadorian visas in 2004 and during the year by bribing government officials. Investigations in June targeted President Gutierrez's brother Gilmar Gutierrez. Although there were no arrests in these cases, Gilmar Gutierrez was removed from Congress over a scandal involving misuse of sporting goods donated by China.

In August President Palacio suspended some of his personal advisors to investigate a forgery and position-selling scandal. The advisors allegedly forged the president's signature on documents granting government positions, which were sold to individuals for personal gain. The case remained under investigation at year's end.

In September authorities accused two members of the Civic Anti-Corruption Commission of leaking information about the commission's investigations. They were subsequently voted off the commission.

There were no developments in the September 2004 case involving the national police chief, several other police officials, and members of the army accused of collaborating with alien smugglers.

In January President Gutierrez issued regulations for the implementation of the Transparency and Access to Information Law, but the government did not provide funding to create a system by which journalists and others could readily access public files. In May President Palacio issued a reform to the law's regulations, limiting the inclusion of defense-related information within the public information covered by the law.

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

A number of domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. Government officials cooperated with the groups but often did not act on their views.

There is an office of the ombudsman to focus on human rights problems; however, some observers criticized its lack of independence in practice. The office had adequate resources, but was not considered effective on human rights issues.

The Gutierrez and Palacio governments continued to implement various aspects of the National Human Rights Plan, including human rights training for the Congress, seminars, publication of documents, and a contingency plan for refugees. Several prominent human rights NGOs publicly criticized the government's lack of progress in implementing the plan.

Congress has a seven-member human rights committee. The committee met infrequently, and local human rights organizations did not consider the committee's role particularly significant.

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

While the law prohibits discrimination based on race, gender, or social status, women, indigenous people, and Afro-Ecuadorians continued to face significant discrimination.

*Women.*—Although the law prohibits violence against women, including within marriage, abuses were widespread. The law provides penalties of up to \$28 or 7 days in prison, creates family courts, and gives courts the power to remove an abusive spouse from the home.

The Office of Gender, in the Ministry of Government, reported 21,861 cases of sexual, psychological, or physical mistreatment of women through November, although the numbers were not complete for all provinces. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. Thirty special Police Stations for Women and Families handled issues including domestic violence. The government's National Commission on Women (CONAMU) may accept complaints about abuse of women but must refer cases to the prosecutor's

office for action. CONAMU had projects in all provinces, focusing primarily on equal opportunities, public policy programs toward women, and lines of credit for women's businesses. CONAMU also offered legal and psychological services to victims of violence in most provinces. In some police stations, social workers employed by city governments or NGOs assisted victims.

The law criminalizes rape, including spousal rape, and provides a penalty of up to 25 years in prison. In cases of statutory rape involving "amorous" sex with a minor, the rapist may marry the victim, which cancels the charges unless the marriage subsequently is annulled. The penalty for rape where death occurred is 35 years in prison. By year's end there were 1,421 reported rapes, resulting in 487 persons charged; no information was available on the number of cases prosecuted. Many rapes were not reported due to the victims' reluctance to confront the perpetrators.

Prostitution is legal for persons over the age of 18 so long as the businesses are registered with the government and follow health regulations. Trafficking in persons for prostitution was a problem (see section 5, Trafficking).

Despite the legal prohibition of harassment, women's rights organizations described sexual harassment in the workplace as common.

The law also provides legal support to the government's Women's Bureau in cases of sexual harassment in the workplace.

Despite legal protections of women's rights in politics, the home, and employment, societal discrimination against women was pervasive, particularly with respect to educational and economic opportunities for those in the lower economic strata. Although women enjoy the same legal status as men, the Office of Gender reported that women often did not receive equal rights in practice. According to the government, women received approximately 65 percent of the pay received by men for equal work. The women's movement alleged that culture and tradition inhibited achievement of full equality for women. There were fewer women than men employed in professional work and skilled trades.

The Ecuadorian Women's Permanent National Forum included more than 320 women's organizations and promoted social, economic, and cultural change through various methods, including increasing political participation by women. The National Women's Council provided support for approximately 500 women's organizations, many of which promoted social consciousness and greater participation by women in the political process. The NGO Women's Political Coordinator operated in 22 provinces and promoted similar themes relating to women's rights, with emphases on political participation and human rights. It also focused on young women and Afro-Ecuadorian women.

*Children.*—The government was committed to children's rights and welfare and has increased funding for child health and education; however, those steps were not fully effective. The United Nations International Children's Emergency Fund (UNICEF) reported in 2004 that approximately 65 percent of the country's 4.8 million children lived in poverty and that malnutrition affected 15 percent of children under age 5.

The law requires that children receive a minimum of 10 years of education; however, due to the lack of schools in many rural communities, the government's failure to provide adequate resources, the economic needs of families, and the comparatively high cost for poor families of books and uniforms, the government rarely enforced this requirement in practice. The Ministry of Education reported that most children achieved a sixth grade education. The citizen movement Social Contract for Education estimated that during the year some 660 thousand children aged 6–17 (approximately 22 percent of school-age children) did not attend school. Education was free through high school, although there were various related fees that prevented many children and adolescents from attending school. The government operated programs that provided families with educational subsidies as an incentive to keep children in school, which assisted approximately 50 thousand children. In rural areas, many children attended school only sporadically after 10 years of age because they needed to contribute to household income, primarily as farm laborers (see section 6.d.).

The government provided free medical care to children under six years of age. Boys and girls received equal access.

There was no societal pattern of abuse against children.

Commercial sexual exploitation of minors was a problem (see section 5, Trafficking).

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

More than 20 NGOs promoted child welfare. UNICEF and several private organizations were active in programs to assist street children. The children of the poor often experienced severe hardships, particularly in urban areas.

*Trafficking in Persons.*—While the law prohibits trafficking in persons, there were reports that persons were trafficked within, to, from, and through the country. On June 23, the government enacted a law that criminalizes trafficking in persons and provides prison terms of 6 to 35 years. The law also provides penalties of 6 to 12 years in prison to companies and individuals who promote sexual tourism and child sex tourism. After the law went into effect, the government showed little progress in prosecuting traffickers. During the year there were at least two trafficking related cases resulting in four arrests and no prosecutions.

The police youth protection agency (DINAPEN) received antitrafficking training and conducted regular raids on nightclubs, bars, and brothels, but normally did not determine whether their underage workers and guests had been sexually exploited. In September a raid in Guayaquil led to the arrest of a 19-year-old man for prostituting a minor. The government appointed a special prosecutor to oversee trafficking cases in Quito. A specially vetted police unit designed to combat alien smuggling also worked with DINAPEN and judicial police to investigate trafficking cases. The government cooperated in international investigations of trafficking.

The country was a source, transit, and destination country for persons trafficked for sexual exploitation and forced labor. The most recent statistics, from a 2002 International Labor Organization report, estimated 5,200 minors were engaged in prostitution. Ecuadorians were trafficked to Western Europe, primarily Italy and Spain, and other Latin American countries. Some Colombians were trafficked into prostitution in the country. Internally, adults and children were trafficked into prostitution. Anecdotal evidence showed that traffickers lured young victims romantically or with promises of dignified employment and then forced them into prostitution. Some poverty-stricken parents also sold their children, wittingly or unwittingly, into prostitution or forced labor in agriculture, including banana plantations, or mines.

Anecdotal evidence indicated that some of those willing to pay up to \$12 thousand to be smuggled out of the country were also victims of trafficking, and women were susceptible to sexual abuse by smugglers. There were numerous allegations of official corruption related to migrant smuggling, but no resulting arrests or convictions. Falsification of civil registry documents to disguise the nationalities of trafficking victims and the ages of juveniles was a problem.

Minors discovered engaging in prostitution were returned to their families or to NGOs without being detained. Crime witnesses are provided protection in several shelters that have standing agreements with the Public Ministry. NGOs worked with local governments to provide limited preventive education and victims' assistance, including counseling, medical attention, self-esteem building, and legal assistance.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other state services, and the government effectively enforced the law. The interagency National Council on Disabilities oversees government policies regarding persons with disabilities. Although the law mandates access to buildings for persons with disabilities, the government did not enforce it.

In December the law was amended to require the hiring of persons with disabilities in all public and private enterprises with more than 25 employees.

*National/Racial/Ethnic Minorities.*—The estimated 1.1 million Afro-Ecuadorian citizens suffered widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity.

The Afro-Ecuadorian Cultural Center estimated that 70 percent of Afro-Ecuadorians lived in poverty. Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination, including stereotyping, continued to affect them. For example, they asserted that the police stopped Afro-Ecuadorians for document checks more frequently than they stopped other citizens and that employers often would not interview persons whose job applications carried Afro-Ecuadorian photos. There were no special government efforts to address these problems.

*Indigenous People.*—Estimates of those who maintained their indigenous cultural identity and lived in indigenous communities varied between 7 and 20 percent of the population. The vast majority of indigenous citizens resided in rural areas, including the highlands and the Amazonian provinces. Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the government to assist them, indigenous people continued to suffer discrimination at many levels of society. With few exceptions, indigenous people were at the lowest end of the socioeconomic scale.

Arable land was scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease were common. Electricity and potable water often were unavailable. Although the rural education system was seriously deficient, many indigenous groups participated with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The law recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people also have the same civil and political rights as other citizens. In the Amazon region, indigenous groups lobbied the government, enlisted the help of foreign and domestic NGOs, and mounted protests, including kidnapping oil workers in past years, in attempts to win a share of oil revenues and a voice in natural resource and development decisions.

The government tended to consult indigenous communities on natural resource matters. Oil companies increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but faced criticism from indigenous groups that environmental damage, particularly deforestation, continued. Indigenous efforts to manage the flow of illegal lumber were undermined by corrupt local officials, a lack of political will, and divisions among and within indigenous communities.

The ombudsman's office established ombudsman representatives in indigenous communities throughout the country. These had responsibility for promoting human and indigenous rights among indigenous communities and providing specific advisory services to these groups.

Police used force to suppress CONAIE demonstrations in Quito in October and November (see section 2.b.).

There were no developments in the February 2004 case in which two unidentified individuals shot at Leonidas Iza, president of CONAIE, or in the killing of Maria Lalbai by members of the military during a February 2004 protest.

*Other Societal Abuses and Discrimination.*—Although the law prohibits discrimination based on sexual orientation, homosexuals, transsexuals, and transvestites continued to suffer discrimination from both public and private bodies. In April the ombudsman office opened an investigation into the extent of discrimination suffered by sexual minorities.

On July 20, the homosexual rights group Friends for Life Foundation charged Guayaquil State University with requiring incoming medical students to be tested for HIV/AIDS. The group claimed that one medical school applicant who refused to submit to testing initially was denied admittance. The applicant later was admitted following a constitutional writ.

According to a credible NGO, a July police operation in Guayaquil known as "Pink Gentleman" aimed to remove transvestite and transsexual sex workers from certain upscale neighborhoods in Guayaquil. Another NGO claimed that police routinely arrested transvestites visible in these areas. The group stated that in a series of operations in July and September, 41 homosexual, transsexual, or transvestite persons had been arrested, held for 24 hours, and then released upon payment of bail. Police officials confirmed that not only prostitutes, but homosexuals who were not prostitutes, were arrested and detained for 24 hours. In response to similar complaints, the ombudsman's office opened an investigation into the September events.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—While the law provides most workers with the right to form and join trade unions of their choice, legal protections of these rights were inadequate, sometimes failing to deter employers from retaliating against workers for organizing. Members of the police, the military, and most public sector employees were not free to form trade unions. A June report from the International Confederation of Free Trade Unions found that public and private sector employees faced many obstacles to organizing. Approximately 2 to 3 percent of the workforce was organized.

The law sets the number of workers required for an establishment to be unionized at 30, which the ILO's Committee on Freedom of Association considered too stringent a limitation at the plant workers' council level. Some companies took advantage of this law by sub-contracting with several shell companies, each of which has less than 30 workers. Subcontracted workers have no legal right to freedom of association, no right to bargain collectively, and no legal protection against antiunion discrimination.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public em-



employees maintained membership in some labor sector association which is not allowed to strike or bargain collectively (see section 6.b.).

The Labor Code requires workers in state enterprises to be represented by only one labor union. The law does not require reinstatement of workers fired for antiunion activity but does require compensation and fines. The law does not protect workers against antiunion discrimination in hiring. There were several cases during the year of workers in the flower and banana industries forming associations or unions and subsequently being fired or prohibited from entering the workplace.

*b. The Right to Organize and Bargain Collectively.*—The law requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Collective bargaining agreements covered 25 percent of the organized workforce. Most of the economically active population was employed in the agricultural sector or the urban informal sector; the vast majority of these workers were not organized. The law allows businesses to hire workers on individual contracts.

Newly hired employees, particularly in the agricultural sector, worked on temporary contracts. In practice it was difficult to organize temporary employees on short-term contracts. Since the Labor Code does not recognize temporary workers, they do not enjoy the same level of protection offered to other workers.

There are few restrictions on the right of private-sector workers to strike, although a 10-day period is required before a strike can be declared. The law allows solidarity strikes or boycotts of three days if the Ministry of Labor approves them. In some industries, during a legal strike, workers may take possession of the factory or workplace (thus ending production at the site) and receive police protection during the takeover. However, in other industries, such as agriculture, the law requires a 20-day waiting period from the day the strike is called. During this time, workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The law provides that “the employer may contract substitute personnel” only when striking workers refuse to send the number of workers to provide the minimum necessary services, although in practice this law was not enforced. The law protects strikers and their leaders from retaliation.

The law does not provide the majority of public workers (those who fall under the civil service law) with the right to strike and includes a provision that striking public sector workers are liable to between two and five years in prison; however, there were frequent “illegal” strikes, including by public school teachers and health workers. Public workers are prohibited from bargaining collectively.

In July 50 employees of the public petroleum company fired by the government in 2003 were reinstated.

The law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries. The maquila system allows a company and its property to become an export-processing zone wherever it is located. There were no unions or labor associations in the maquilas. Most workers were hired on temporary contracts by the employer to complete a specific order.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, including by children, there were reports that children were trafficked for labor (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law protects children from exploitation in the workplace and defines acceptable working conditions, the government did not effectively implement the law, and child labor remained a problem.

The law sets the minimum working age for minors at 15 for all types of labor and the maximum hours a minor may work at 6 hours per day and 5 days per week. The law prohibits minors from working in hazardous conditions, including in mines, with toxic or dangerous substances, or with dangerous machinery. Employers are required to pay minors at least 80 percent of the wages received by adults for the same type of employment. Penalties for violations of the child labor laws include fines of \$50 to \$300 for parents or guardians and \$200 to \$1,000 for employers. In cases of repeated infractions, the employer’s business can be closed. The inter-agency National Committee for the Eradication of Child Labor (CONEPTI) developed a National Plan for the Eradication of Child Labor, which the minister of labor approved on September 21. The government began implementing awareness campaigns on child labor and hired 23 child labor inspectors.

The Ministry of Labor and the Minors’ Tribunals failed to enforce child labor laws, and child labor was prevalent. A 2004 study by the Ministry of Labor, the Institute for the Child and Family, and the National Committee for the Progressive Eradication of Child Labor found that 465,770 children between ages 5 and 14 (approx-

mately 15 percent of children in this age group) were engaged in labor not permitted by law, primarily in rural areas.

More than 40 percent of all children lived in rural areas, and many left school at an early age to do unpaid agricultural work for their families.

The Ministry of Labor has a three-officer Division for Child Labor, which meets monthly with other divisions in the Ministry of Labor and the National Committee for the Progressive Eradication of Child Labor, which includes government agencies, businesses, and labor organizations. The Division of Child Labor planned and implemented the national system of child labor inspections. It also played a key role in forming the Banana Social Forum in 2004 and the Flower Social Forum during the year. The ILO worked with the forums to remove 45 children from work and prevent 1,250 children from entering work in those sectors.

The Ministry of Labor's 23 child labor inspectors conducted approximately 1,500 child labor inspections from January to July, which found approximately 1,050 adolescents working and approximately 230 children under age 15 working. The ministry worked to regulate the employment of the adolescents found. On some occasions, large banana plantations reportedly fired child workers when they received notice that labor inspectors were arriving. Reports also indicated that inspectors mainly targeted large banana plantations.

While the Ministry of Labor's Social Service Directorate monitored child labor in businesses such as factories, enforcement in most sectors of the economy remained limited. In urban areas, many children under age 15 worked in family-owned businesses in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Other children were employed in commerce, messenger services, domestic services, and begging. Children as young as five or six often sold newspapers or candy on the street to support themselves or to augment family income.

The government supported the Program for the Schooling and Protection of Child Workers. The Child Worker Program implemented a workshop program in six cities to work with families and schools on the problem of child labor. The program also administered a scholarship program for child laborers.

*e. Acceptable Conditions of Work.*—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust the minimum wage. As of December the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$166, or \$0.95 per hour, in the case of contract workers. The statutory minimum wage did not provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers worked in the large informal and rural sector without obtaining the minimum wage or legally mandated benefits.

The law provides for a 40-hour workweek and 2 consecutive days of rest per week. If required to work beyond the standard workweek, workers must be paid overtime. A higher overtime rate is set for working at night. The maximum number of hours of overtime was 12 hours per week, which generally was respected, except in subcontracting companies where workers sometimes were required to work up to 28 hours of overtime per week. The Ministry of Labor did not deploy sufficient resources to enforce labor laws.

The law also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace for health reasons, even if there is a hazardous situation. A worker is allowed to request that an inspector from the Ministry of Labor confirm a workplace hazard; that inspector then may close down the workplace. Response time for inspectors ranged from a few days in major cities to much longer in the countryside.

The Social Security Institute is responsible for enforcing health and safety standards and regulations. In the formal sector, occupational health and safety was not a significant problem. However, there were no specific regulations governing health and safety standards in the agricultural sector, and in practice there was no enforcement of safety rules in the small mines that make up the vast majority of enterprises in the mining sector.

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## EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an estimated population of 6.7 million. In March 2004 voters elected Elias Antonio "Tony" Saca of the Nationalist Republican Alliance (ARENA) as president for a 5-year term in gen-

erally free and fair elections. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the rights of its citizens, protection of human rights was undermined by widespread impunity, corruption among the security forces and other governmental authorities, and gang violence. The following human rights problems were reported:

- excessive use of force and mistreatment of detainees by members of the security forces
- arbitrary arrest and detention
- harsh prison conditions, including inadequate supervision, widespread violence, and overcrowding
- lengthy pretrial detention
- inefficiency and corruption in the judicial system
- violence and discrimination against women
- abuses against children, child labor, and forced child prostitution
- trafficking in persons
- discrimination against persons with disabilities
- discrimination against indigenous persons
- discrimination against persons based on sexual orientation
- lack of enforcement of trade union rights

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, the Office of the Inspector General of the Civilian National Police (PNC/IG) reported that security forces unlawfully killed six persons during the year.

During the year the Office of the Ombudsman for Human Rights (PDDH) received complaints of mistreatment by police officials, including unlawful killings, attempted unlawful killings, assaults, and other offenses causing bodily harm. The PDDH determined that the PNC was at fault in 35 of these cases.

The PNC/IG reported that it had received 11 cases of police involvement in killings during the year, 1 of which related to the killing of a gang member.

The PNC/IG reported that on March 8, police officer Nelson Alexander Minero Vasquez shot and killed fellow officer Antonio Cruz Vasquez and injured fellow officer Victor Manuel Cabrera Valladares. At year's end Minero Vasquez had fled the authorities, and the case remained under investigation.

During the year President Anthonio Saca stated on several occasions that it was unlikely the government would reopen the case of the 1980 killing of Archbishop Oscar Romero, despite calls in 2004 by the Catholic Church to reopen the investigation.

In March the Inter-American Human Rights Commission (CIDH) announced that it would reopen a case involving the killings of hundreds of villagers at El Mozote, Morazan Department by government forces in 1981.

The media reported discoveries of a number of decapitated bodies of persons killed during the year, possibly due to gang violence. At year's end the PNC was investigating these killings.

In July the principal witness in the Tacoma case, involving the 2003 escape from the Isidro Mendez judicial center jail of 14 members of an organized crime group that operated in Guatemala, Belize, and El Salvador, was killed, reportedly by a gang member. The case remained under investigation at year's end.

At year's end six persons remained under arrest awaiting trial for the November 2004 killing of foreign labor activist Jose Gilberto Soto.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Most disappearances were criminal kidnappings for ransom, and there were no reports of kidnappings by governmental actors. According to PNC statistics, 10 persons were kidnapped during the year, and 8 of these cases were resolved.

During the year the Association for the Search for Children Who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) investigated 99 cases and organized 11 family reunification meetings. Pro-Busqueda has investigated 310 cases since its inception in 1994. For the first time, 794 DNA tests were conducted to create a genetic data bank to help reunite families with missing children.

On February 23, the CIDH reopened the 1982 case of the disappearance of Gregoria Herminia, Serapio Cristian, and Julia Ines Contreras, who were captured

by members of the military from the Fifth Infantry Brigade of the armed forces during an operation carried out at La Conacastada, San Vicente Department. By year's end the CIDH had not published any findings in this case.

On May 1, the Inter-American Court of Human Rights found that the government had violated the rights of sisters Ernestina and Erlinda Serrano Cruz and their families for its role in the sisters' disappearance in 1981. The court further resolved that within six months, the government should take proactive measures including publicly acknowledging the facts of the case, investigating and prosecuting those responsible, creating a committee to search for children who disappeared during the armed conflict, and paying compensation to the family of the Serrano Cruz sisters.

In September the government announced that it had fulfilled the order of the Inter-American Court of Human Rights by: Publishing the ruling in the *Gazeta Oficial*, in *La Prensa Grafica*, and *El Diario de Hoy*; designating a day of commemoration for the children who disappeared during the armed conflict; and stating its intention to pay damages, provide medical treatment for the victims and their families, and create a web page to facilitate reunions of children with their families. At year's end the government had not yet paid the compensation. Although the government averred that the national hospitals have already provided medical treatment to the victims, *Pro-Busqueda* asserted that the national hospitals lacked the expertise to address adequately the victims' special needs.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, but during the year the PDDH received 54 complaints that PNC officers used excessive force or otherwise mistreated detainees. The PDDH found PNC officers responsible in 35 cases. During the year the IG received 44 petitions to investigate cases of alleged personal integrity violations.

There were no developments regarding the investigation into the killing of Melvin Guadalupe during July 2004 riots in San Salvador, during which the police reportedly used excessive force.

During the year the IG received 187 complaints of police misconduct. There was no information available at year's end on whether the PDDH referred cases to the attorney general's office for prosecution.

On July 2, authorities arrested five PNC agents in Acajutla, Sonsonate jurisdiction on rape charges, based on a PNC investigation finding that the agents forced alien minors to have sex with them to avoid a deportation procedure. At year's end the PNG/IG was conducting a disciplinary review, but criminal charges against the defendants were dropped due to lack of evidence.

*Prison and Detention Center Conditions.*—Prison conditions remained dangerous and harsh. Overcrowding constituted a serious threat to prisoners' health and lives. The prison population increased for the fifth consecutive year. There were 12,176 prisoners held in 21 correctional facilities and 2 secure hospital wards with a combined designed capacity for 7,372 persons.

At year's end authorities had failed to regain control of all cellblocks at the La Esperanza Central Penitentiary following an August take-over of the facility by prisoners. According to correctional facility authorities, there were 22 riots in 11 prisons throughout the country in Santa Ana, Apanteos, Quezaltepeque, Chalatenango, Ilopango, Zacatecoluca, Cojutepeque, Oriental, San Miguel, Ciudad Barrios, and San Francisco Gotera.

Prison authorities reported that there were eight deaths due to violence and nine from natural causes in the prison system during the year. Prisoners obtained weapons that had been smuggled into prisons, at times with the knowledge of guards. On July 1, prison authorities seized 334 edged weapons during routine security inspections at La Esperanza Penitentiary.

Gang activities in prisons remained a serious problem. Gangs continued to exercise influence within the prisons and the judicial system, and prisoners reportedly continued to run criminal activities from their cells. In September gangs within the maximum-security prison at Zacatecoluca ordered prisoners of different penitentiaries to go on a hunger strike and to not attend judicial hearings, with authorities reporting that 1,987 detainees refused to attend judicial hearings during the year. Judges ordered prison authorities to use law enforcement agencies to re-establish control.

In August judicial authorities tried 13 prisoners who had led an August 2004 riot between gang members and non-gang members at the Mariona prison. All were found guilty of homicide and awaited sentencing at year's end.

In July the judge of the Mejicanos Court of Instruction dismissed, due to lack of evidence, charges of negligence in preventing and reporting drug trafficking at Mariona prison. The charges had been brought in December 2004 against former prison warden Jose Antonio Guzman Blanco.

By year's end authorities had recaptured 7 of the 14 minor prisoners who escaped on September 16 from Ilobasco Penitentiary.

Gang violence in juvenile holding facilities was a serious problem.

Because of a lack of holding cells, pretrial detainees often were sent to regular prisons where they could be placed together with violent criminals.

The government permitted prison monitoring visits by independent human rights observers, nongovernmental organizations (NGOs), and the media, and such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—Although the law prohibits arbitrary arrest and detention, there were complaints that at times the PNC arbitrarily arrested and detained persons. By year's end the PNC/IG received 9 petitions alleging arbitrary arrest and detention, and the PDDH received 36 complaints alleging police violations of personal liberty; the PNC was found responsible in 31 cases.

*Role of the Police and Security Apparatus.*—The PNC maintained public security and the Ministry of Defense was responsible for national security. The military provided support for a few PNC patrols in rural areas and also gave support to the law enforcement agencies for specific activities, including antinarcotics efforts and reform school training for juvenile convicts. The Ministry of Governance headed the Anti-Gang Task Force with 333 military personnel deployed in high crime areas.

The PNC's effectiveness was undermined by inadequate training, insufficient government funding, and the lack of a uniform code of evidence. Police corruption and impunity were widespread problems, although the police retained a high approval rating among the public and were perceived as comparatively non-corrupt. Persons could report complaints about PNC abuses either to the PDDH or the IG, which then investigate the case or refer the matter to the attorney general's office for further review.

On September 14, the Second Judge of San Miguel found that there was insufficient evidence to bring criminal charges of drug possession and membership in illicit associations against police officers Juan Adelson Vasquez Garcia and Carlos Alexander Ramos. Both defendants were arrested in a July antigang operation on suspicion of membership in the Mara Salvatrucha gang.

The PNC/IG reported that during the year 5,369 police officers received human rights awareness training. The Salvadoran Institute for the Development of Women (ISDEMU), a government agency, gave training to the police regarding prevention of rape, child abuse, and related offenses. The NGO Instituto de Estudios de la Mujer "Norma Virginia Guirola de Herrera" also trained police regarding the treatment of women. On November 30, the Legislative Assembly passed legislation to establish an International Law Enforcement Academy (ILEA) for training police, prosecutors, and other public security and judicial officials.

*Arrest and Detention.*—The law requires a written warrant for arrest, except in cases where an individual is arrested in the commission of a crime. In practice persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and were brought before appropriate judicial officials. The law provides that a detainee has the right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. In general detainees were promptly informed of charges against them.

The law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners were incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee was able to request a review by the Supreme Court of the continued detention.

The courts generally enforced a ruling that interrogation without the presence of counsel is considered coercion, and that any evidence obtained in such a manner is inadmissible. As a result, PNC authorities generally delayed questioning until a public defender or an attorney arrived. Family members were allowed prompt access to visit detainees. Detainees generally had prompt access to counsel of their choosing or to an attorney provided by the state.

There were no reports of political detainees.

The law permits the PNC to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often were sent to regular prisons, where they could be placed together with violent criminals (see section 1.c.). The law permits a judge to take up to six months to investigate serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor or either party may ask the appeals court to extend the deadline for three to six months, depending

on the seriousness of the crime. However, many cases were not completed within the legally prescribed time frame. At year's end the Penitentiary Directorate reported that 3,538 inmates were in pretrial detention.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judiciary suffered from inefficiency and corruption. Corruption in the judicial system contributed to impunity from the country's civil and criminal laws. Impunity remained a significant problem, undermining respect for the judiciary and the rule of law. A September CID-Gallup poll revealed citizens' belief that judicial system inefficiencies allowed criminals to escape from justice. Many judges allowed unjustified trial delays, but few were ever sanctioned for this practice. NGOs such as the Foundation for Studies in Legal Application (FESPAD), the Salvadoran Foundation for Economic and Social Development, and the Human Rights Institute of the University of Central America (IDHUCA) claimed that the Supreme Court did not respond adequately to public criticism and did not make a comprehensive effort to remove unqualified and corrupt judges.

The PNC, prosecutors, public defenders, and the courts continued to have problems with criminal investigations. Inadequate government funding of the PNC and intimidation of victims and witnesses made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system.

During the year the attorney general's office received 117 complaints of prosecutorial irregularities, including bribery, negligence, and failure to attend legal proceedings.

In August the Criminal Chamber of the Supreme Court affirmed an October 2004 court decision dismissing charges of child pornography against Nelson Garcia, former president of the Salvadoran Bar Association and former candidate for the Supreme Court.

There were no new developments regarding the criminal court's October 2004 releasing from police custody and dismissing of charges against criminal court legal clerk Graciela Roque, in connection with the 2004 flight from justice of Raul Garcia Prieto.

There were no developments regarding an appellate court's August 2004 decision to uphold a lower court ruling to transfer defendant Fernando Palacios Luna, convicted of kidnapping and organized crime, from a maximum-security to a medium-security prison. At year's end Palacios Luna, who was given a sentence of 40 years, remained in maximum security at the Zacatecaluca prison.

The court system has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court oversees the budget and administration of the court system, and selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council (CNJ), an independent body that nominates, trains, and evaluates justices. There are separate court systems for family matters and juvenile offenders. The law requires that minors from 12 to 17 years of age be tried in juvenile courts.

Although juries were used for specific charges, including environmental pollution, and certain misdemeanors, judges decided most cases. By law juries hear only cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a tribunal decides the sentence.

Defendants have the right to be present in court and to question witnesses and present witnesses and evidence. Although the law further provides for the presumption of innocence, protection from self-incrimination, the right to legal counsel, freedom from coercion, and government-provided legal counsel for the indigent, these legal rights and protections were not always respected in practice. Although a jury's verdict is final, a judge's verdict can be appealed. Trials are public.

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

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

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press and the government generally respected these rights in practice. The independent media were active and expressed a variety of views without restriction. International media were allowed to operate freely.

There were no further developments and non were expected in the October 2004 convictions for public disorder and the sentencing of defendants to 2-year suspended sentences in relation to attacks on journalists and the burning of media vehicles in April 2004 during a demonstration by social security (ISSS) workers (see section 6.a.).

International NGOs generally commented positively on the status of press freedom in the country. According to some media groups, however, a criminal code provision allowing judges to close court proceedings if public exposure could prejudice a case abridged press freedom. According to some practitioners and observers, at times newspaper editors and radio directors discouraged journalists from reporting on topics or presenting views that the owners or publishers might not view favorably.

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

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly, and the government generally respected this right in practice.

*Freedom of Association.*—Although the law provides for freedom of association, there were concerns regarding registration delays of certain types of civil society groups. NGOs asserted that the Governance Ministry delayed approval of legal status for NGOs with particular human rights or political agendas. There were no developments regarding the Governance Ministry's denial of legal status to *En Nombre de la Rosa*, a homosexual and transvestite advocacy association (see section 5).

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community totaled approximately 150 persons.

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

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

The law prohibits forced internal or external exile, and the government observed this prohibition in practice.

*Protection of Refugees.*—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In August the president enacted new regulations relating to the status of refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government received two refugee petition requests during the year. One of these petitions was rejected, and the other remained under review at year's end. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN Convention or 1967 protocol. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

At year's end there was no public response by the government to the UNHCR liaison's August 2004 public complaint about the government's attitude toward Nicaraguans who had moved to El Salvador during the 1980s, but who had never completed application procedures for refugee status.

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

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

ARENA party candidate Elias Antonio Saca won the March 2004 presidential elections, which the Organization of American States and other international observers reported were free, fair, and with few irregularities.

The country's vice president was a woman, and 9 of 84 legislators were women. There were 2 women on the 15-member Supreme Court.

No persons identified as members of an ethnic or religious minority held leadership positions in the government or the Legislative Assembly.

*Government Corruption and Transparency.*—There were reports of substantial government corruption during the year within the judicial system (see section 1.e.), as well as in the executive and legislative branches. In September FUSADES asserted that the comptroller's office lacked the independence to perform properly its duties to investigate malfeasance of public funds.

On September 20, *La Prensa Grafica* reported that the National Public Security Academy (ANSP), in charge of recruiting PNC candidates, had accepted 23 students

who failed psychological and subject tests. The Ministry of Governance ordered an investigation, found that the ANSP Academic Council had exceeded its discretionary authority, and replaced the ANSP director.

Even though the law provides for public access to government information, the public had difficulty accessing government budget figures and information involving investigations by the comptroller's office.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials at times were reluctant to discuss worker rights issues with NGOs and refused to discuss the topic with the PDDH. Domestic and international NGOs were required to register with the government, and some reported difficulties (see section 2.b.).

The principal human rights investigative and monitoring body is the PDDH, whose head is elected by the Legislative Assembly for a 3-year term. In September the comptroller accused the PDDH of misuse of \$25 thousand in public funds. The PDDH maintained a constructive dialog with the president's office, but alleged that the PDDH Director Beatrice Alamanni de Carrillo received threats from unknown sources and lacked sufficient resources. The PDDH regularly issued reports and media releases.

During the year the PDDH accepted complaints of human rights violations (see sections 1.a. and 1.c.) and issued 1,002 findings involving complaints filed during the year and previous years. The rights most frequently alleged to have been violated related to personal integrity, due process, and labor laws. The PDDH found that 65 complaints were merited; it dismissed charges in 187 cases and issued or reconfirmed recommendations in 48 and 130 complaints, respectively. Thirty-two resolutions were *sui generis*.

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

Although the law prohibits discrimination based on race, gender, disability, language or social status, in practice the government did not effectively enforce these prohibitions. There was discrimination against women, persons with disabilities, and indigenous people regarding salaries and hiring and instances of violence committed by prison guards and private actors against persons based on sexual orientation.

*Women.*—Violence against women, including domestic violence, was a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from six months to one year in prison. In addition convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The length of the prohibition depends on the circumstances of the case and is at the judge's discretion. The law also permits the imposition of restraining orders against offenders. Domestic violence was considered socially acceptable by a large portion of the population. Few victims filed complaints against abusers, and the police reportedly at times were reluctant to pursue charges in such cases. The Salvadoran Institute for the Development of Women (ISDEMU) conducted public awareness campaigns against domestic violence and sexual abuse in coordination with the judicial and executive branches and with civil society groups.

During the year the PNC received 5,389 domestic violence complaints. By year's end ISDEMU had received 4,033 complaints of domestic violence, compared with 4,329 complaints in 2004. Incidents of domestic violence and rape continued to be underreported for a number of reasons, including societal and cultural pressures against victims, fears of reprisal, ineffective and unsupportive responses by the authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted.

Government institutions, such as the PDDH, the attorney general's office, the Supreme Court, the public defender's office, and the PNC coordinated efforts with NGOs and other organizations to combat violence against women through education, increased enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through ISDEMU, defined policies, programs, and projects on domestic violence and maintained a hot line and a shelter for victims of domestic abuse. Judges are permitted to give NGOs legal authority to assist victims of domestic violence.

Rape and other sexual crimes against women were widespread and serious problems. During the year the PNC received reports of 455 rapes against children and



women and 225 cases of sexual assault. There was no information available on the number of rapes and other sexual assaults that were gang related.

The law permits the attorney general to prosecute rape cases with or without a complaint from the victim, and does not permit the victim's pardon to nullify the criminal charge. In general the penalty for rape is 6 to 10 years in prison. The law, however, provides for a maximum sentence of 20 years for rape of special classes of victims, including children and persons with disabilities.

ISDEMU conducted sensitivity and technical courses for the education, government, public health, and social assistance ministries; the judicial branch; the PNC; the Attorney General's Office; and the ISSS. ISDEMU also provided psychological assistance to 397 victims of rape and other forms of sexual abuse.

Although the law does not specifically address spousal rape, it may be considered a crime if the actions meet the definition of rape in the Criminal Code. By year's end there were no new developments in the ongoing police investigation into the 2003 killings by decapitation of two young women.

Although prostitution is legal, the law prohibits inducing, facilitating, promoting, or giving incentives to a person to work as a prostitute. Prostitution remained common, and there were credible reports that some women and girls were forced into prostitution (see section 6.c.). There were no reports that police or other public security officials condoned or engaged in abuse of persons engaged in prostitution.

There were no reports of sex tourism. Trafficking in women and girls for purposes of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and stipulates penalties of 3 to 5 years for those convicted of harassment, or 4 to 8 years in cases where the victim was a minor under the age of 15. Fines are added to the prison term in cases where the perpetrator is in a position of authority or trust over the victim. The government did not enforce sexual harassment laws effectively. Even though pregnancy testing as a condition for employment is illegal, some employers, including maquila factories in the Export Processing Zones (EPZs), required female job applicants to present pregnancy test results and also fired workers found to be pregnant.

There were no new developments and none were expected in the October 2004 mediation agreement between PNC Sub-commissioner Wilfredo Avelenda and three subordinates who accused him of sexual harassment. The agreement stipulated that in the future Avelenda would not intimidate, threaten or engage in any reprisals against the complaining subordinates.

The law grants women and men the same legal rights under family and property law, but at times women did not receive equal treatment in practice. The law establishes sentences of one to three years in prison for public officials who deny a person's civil rights based on gender. Although the law provides for a prison sentence of six months to two years for employers who discriminate against women in labor relations, it was difficult for employees to report such violations because they feared reprisals.

Women suffered from cultural and societal discrimination and had reduced economic opportunities. Men often received priority in job placement and promotions, and women were not accorded equal respect or stature in traditional male-dominated sectors, such as agriculture and business. Training for women generally was confined to low-wage occupational areas where women already held most positions, in fields such as teaching, nursing, home industries, and small businesses.

A 2003 UN Development Program study, the most recent available, reported that women earned on average \$3,350 per year, compared with \$7,381 for men. In the maquila sector, where women formed approximately 85 percent of the labor force, men held the majority of positions in management and in departments where employees received higher wages.

ISDEMU provided technical and financial assistance to support entrepreneurial activities and worked in 16 municipalities to combat economic discrimination against women.

*Children.*—The government was committed to improving children's rights and welfare, but allocated insufficient resources and suffered from poor interagency coordination in its child welfare activities. The Salvadoran Institute for Children and Adolescents (ISNA), an autonomous entity, has primary responsibility for child welfare issues.

The government focused on improving children's education, with the goal of creating a more competitive work force through programs supporting bilingual studies and computer and mathematics skills.

The Ministry of Education and the Ministry of Labor, with foreign government assistance, coordinated the APRENDO program that raised awareness among students, teachers, and parents regarding the importance of remaining in school and avoiding harmful forms of child labor. The government also cooperated in a program

sponsored by the UN Children's Fund (UNICEF) which provided information to 8,517 children regarding sexual and commercial exploitation.

Education is free, universal, and compulsory through the ninth grade and nominally free through high school. Children on average attended school for approximately 5.5 years. The law prohibits persons from impeding children's access to school due to inability to pay fees or buy uniforms. Some public schools, however, continued to charge student fees, preventing poor children from attending school. Rural areas fell short of providing a ninth grade education to all potential students, due to a lack of resources and because rural parents often withdrew their children from school by the sixth grade to work.

Boys and girls enjoyed equal access to medical care.

Child abuse was a serious and widespread problem. As of November 30, ISNA reported 589 cases of negligence toward children, 407 cases of child abuse and mistreatment, 221 cases of child sexual abuse, and 70 cases of child commercial sexual exploitation. A majority of the victims were female. Through the end of November, ISNA reported that its shelters housed 344 girls and 510 boys.

There were also reports of PNC abuse of street children (see section 1.c.). The government provided street children with food, shelter, and healthcare. There were 15 street children housed in ISNA shelters, but ISNA lacked adequate resources to provide assistance to all street children.

By year's end ISNA reported 221 sexual crimes against children including child prostitution, rape, statutory rape, and molestation. International Labor Organization (ILO) data compiled during the year indicated that there was societal tolerance toward having sexual relations with minors. During the year the Children's National Hospital reported 30 cases of violence against children.

Child prostitution was a problem, and included the commercial sexual exploitation of minors for upper class clients. Children, especially those living on the streets, were trafficked to other countries, including for the purpose of sexual exploitation (see section 5, Trafficking).

A UNICEF sponsored a program to prevent sexual and commercial exploitation began operations during the year and provided information to 8,517 children.

Child labor remained a widespread and serious problem (see section 6.d.).

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. Trafficking in persons and forced prostitution are felonies, penalized by four to eight years' imprisonment. If the trafficking victim is under 18, suffers mental or physical disease, suffers violations to freedom of transit in a foreign country, dies as a consequence of negligence or imprudence, or if the perpetrator is a law enforcement agent or public officer, the maximum sentence increases by one-third. There are no civil penalties for trafficking.

Despite the arrest of 15 persons accused of trafficking, there were no convictions for trafficking offenses. The following government agencies were responsible directly for combating trafficking in persons: the Alien Smuggling and Trafficking in Persons Unit of the attorney general's office, the PNC, ISNA, and the Directorate General of Immigration. The government did not provide adequate funding for these units.

The government coordinated three separate cases of trafficking in cooperation with INTERPOL and Guatemalan, Belizean, and Nicaraguan authorities. In each of these cases, the government located the victim and repatriated that person to the home country in coordination with ISNA and local authorities. There were no extraditions based on trafficking charges.

Although there were no firm estimates on the extent of trafficking, the country was a point of origin and destination for international trafficking in women and children, particularly the harboring of child prostitutes. There was evidence that the country was a transit point for girls trafficked to Mexico, the United States, neighboring Central American countries, and elsewhere. Some children also were trafficked internally to cities, particularly to Acajutla and San Miguel, and to bars and border regions. Sex trafficking of minors occurred within the country's borders, as did sex trafficking in which commercial sex was induced by force, fraud, or coercion. Most international trafficking victims came from Nicaragua, Honduras, and South America. Particular groups at special risk for trafficking were girls and young women from 12 to 19 years of age, persons from rural and poor areas, single mothers in poor areas, adolescents without formal schooling, adolescent mothers, unemployed young men, and foreign girls. In October the ILO stated that children were most vulnerable to become victims of trafficking.

In August the PNC arrested on trafficking charges Juan Santos Martinez, accused of purchasing a 13-year-old girl in Belize. At year's end Martinez remained under arrest, and the girl had been returned to Belize.

There were no developments in the attorney general's attempt to reopen the case of Sara Elizabeth Galdamez de Orellana, arrested in July 2004 for procuring for prostitution 3 girls aged 14 to 16 in Metapan, but acquitted by a justice of the peace for lack of evidence.

According to immigration authorities, the principal traffickers in the country were employment agencies, which offered inducements for work in beauty salons, as models, in gyms, as maids, or in factories. The PNC reported that the most common methods of obtaining victims were kidnapping, lucrative job offers, and inducement into prostitution by family, friends, and smugglers.

The government detained illegal migrants, including those who might have been trafficking victims. When illegal immigrants who were victims of trafficking were older than 18 years and did not request assistance or express fear for their lives, they were deported as a matter of policy. Persons under 18 years of age were repatriated through ISNA cooperation with the counterpart organization in the victim's country of origin. The PNC encouraged national trafficking victims to press charges against traffickers. A foreign trafficking victim is permitted to file a criminal case, but in practice, illegal migrants, including foreign victims of trafficking, were deported before they had the opportunity to do so. Victims could apply for temporary residence or refugee status if they were likely to face persecution in the country of origin.

The government provided access to legal, medical, and psychological services upon request. Victims of trafficking were not treated as criminals unless they were undocumented workers of legal age. Although the government provided assistance to its repatriated citizens who were victims of trafficking, victims faced societal discrimination due to having engaged in prostitution or other commercial sexual activities.

The Salvadoran Network Against Trafficking, comprising the ILO, Catholic Relief Services, Las Dignas, CONAMUS, Flor de Piedra, FESPAD, and CARITAS, provided legal counseling and human rights awareness to victims of trafficking. CEMUJER, IDHUCA, CONAMUS, the International Office on Migration (IOM), and the ILO had programs to prevent trafficking. The government provided trafficking victims assistance funding only to the IOM.

*Persons with Disabilities.*—Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, the government did not effectively enforce these prohibitions, nor did it effectively enforce legal requirements for access to buildings for persons with disabilities. There was discrimination against persons with disabilities in employment and education.

The government made inadequate efforts during the year to combat discrimination and increase opportunities for persons with non-war-related mental and physical disabilities. The law requires that 1 of every 25 employees hired by private businesses be a person with disabilities. Even though there was no reliable data on the number of persons with disabilities who were employed, the unemployment rate among this group remained significantly higher than that of the general population.

In October a justice of the Constitutional Chamber ruled that a criminal court violated a deaf man's right of defense by failing to provide him a sign-language interpreter during March 2004 judicial proceedings. The accused man was incarcerated on child abuse charges, but a sentencing court released him on bail.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. Few of the government's community-based health promoters were trained to treat persons with disabilities, and they rarely provided such services.

The government provided insufficient funding to the several organizations dedicated to protecting and promoting the rights of persons with disabilities.

The National Council for Disabled Persons was the government agency responsible for protecting the rights of persons with disabilities. The council conducted a media campaign to improve treatment of persons with disabilities and workshops with employees of the health, education, and labor sectors. On December 16, the Rehabilitation Foundation (Teleton), in cooperation with the Salvadoran Institute for the Rehabilitation of the Disabled, opened a treatment center to offer services to persons with disabilities, including a touch garden for the blind, art workshops, a special educational assistance program, and an education program for parents of children with disabilities.

*Indigenous People.*—While the constitution states that native languages are part of the national heritage and should be preserved and respected, the law does not recognize indigenous communities and accords no special rights to indigenous people. Indigenous people comprise approximately 1 percent of the national population

and form three principal groups: Nahua-Pipiles in western and central areas of the country, Lencas in the eastern region, and Cacaoperas also in the eastern region. Due to the persistence of discriminatory cultural attitudes against indigenous people, few individuals publicly identified themselves as indigenous. There were a few small indigenous communities whose members continued to wear traditional dress and maintain traditional customs to a recognizable degree, without repression or interference by the government and nonindigenous groups. Government estimates of 2004 indicated that approximately 99 percent of indigenous people lived below the poverty level.

Access to land was a problem for indigenous people. Because few possessed title to land, bank loans and other forms of credit were extremely limited.

During the year the government's National Committee for Art and Culture, in cooperation with the Inter-American Development Bank, the Pan-American Health Organization, and the Don Bosco University, began an after-school Nahuatl language program in nine schools in the western part of the country. There were no government programs dedicated to combat discrimination against indigenous persons.

In October the NGO National Association of Indigenous Salvadorans worked with the government to assist indigenous victims of Hurricane Stan.

*Other Societal Abuses and Discrimination.*—During the year ISDEMU received several hundred complaints of domestic violence against the elderly.

The law prohibits discrimination on the basis of HIV status and sexual orientation, although in practice discrimination was widespread. There were reports of violence and discrimination by public and private actors against persons with HIV/AIDS, and against homosexual, lesbian, and transgender persons, including denial of legal registration for a homosexual rights advocacy group (see section 2.b.).

A July Pan-American Health Organization report revealed that HIV/AIDS patients suffered from a lack of information and supplies. Lack of public information remained a problem in confronting discrimination against persons with HIV/AIDS or in assisting persons suffering from HIV/AIDS. According to a National Health Survey presented in September, only half of the population between the ages of 15 and 24 were sufficiently aware of methods for preventing HIV infection.

In July the Ministry of Health conducted a public awareness campaign regarding HIV/AIDS, using billboards, advertisements and informational events. In September the Ministry of Labor launched a campaign to eliminate labor discrimination based on pregnancy or HIV status.

Between November 7 and 11, the government hosted Central America's first regional summit on HIV/AIDS to raise awareness about the disease and available preventative measures.

In September two bodyguards of the prisons director were accused of sexually abusing a transvestite minor whom they picked up on the streets in a government vehicle. By year's end a court had ordered them released on bail pending trial.

There were no developments during the year regarding an investigation into the March 2004 separate killings of transvestite Jose Flores Natividad Duran and transvestite David Antonio Andrade Castellano.

There were no reported developments regarding an investigation into the 2003 killings of transvestites Jose Cornado Galdamez, Reyes Armando Aguilar, and Jose Roberto de Paz.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—While the law provides for the right of workers (except military personnel, national police, and government workers) to form unions without previous authorization, there were problems in the exercise of this right.

Worker complaints that the government impeded the exercise of the right of association were supported by the ILO Committee on Freedom of Association. Union leaders asserted that the government and judges continued to use excessive formalities as a justification to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. According to Ministry of Labor's end of year statistics, 9.1 percent of the country's total workforce, including the formal and informal sectors, was unionized, compared with government statistics in 2004 indicating that 30 percent of the formal sector workforce was unionized.

There were no further developments regarding the order of the Supreme Court for the Ministry of Labor to present a report regarding its 2003 denial of registration to the communications union SITCOM.

The law does not require employers to reinstate illegally dismissed workers. Employers dismissed workers who tried to form unions, and in most cases, the government did not prevent their dismissal or seek their reinstatement.

In April workers attempted to form a union at Hermosa Manufacturing Company, and in May the owner closed the factory, claiming that there was an insufficient supply of raw materials to continue operations. Workers filed grievances with the Ministry of Labor, and at year's end payment of all wages and benefits legally due to employees was still pending in the courts.

On November 25, the Evergreen Manufacturing Company closed its factory, leaving 550 workers without jobs, and refused to pay back wages and benefits. The owners alleged that they were suspending operations for three months due to a lack of orders from buyers. The Ministry of Labor was investigating the case at year's end.

The law specifies 18 reasons for which an employer can legally suspend workers, and employers can invoke 11 of these reasons without prior administrative or judicial authorization. Workers and the ILO reported instances where employers used illegal means to undermine union organizing, including the dismissal of labor activists and the circulation of lists of workers who would not be hired because they had belonged to unions.

At year's end the Ministry of Labor reported that the country had 178 active unions and 174 registered unions, 18 labor federations, and 3 labor confederations. In July the Ministry of Labor granted official status to the Port Industry Workers Union of El Salvador (STIPES).

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. Ministry of Labor statistics as of June reported 252 collective bargaining agreements in effect, covering 53,091 workers. Labor leaders asserted that the government had an unfair advantage in arbitration of public sector labor disputes, because the government holds two of three seats on arbitration panels.

With the exception of public workers that provide vital community services, the law recognizes the right to strike, and workers exercised this right in practice. Despite the prohibition on strikes by public sector workers performing vital community services, the government generally treated work stoppages called by such worker associations as legitimate. In July the Supreme Court ruled in favor of and awarded severance payments to workers of the Governance Ministry who had gone on a hunger strike in May to protest unfair dismissal.

In order for a strike to be legal, 51 percent of workers in an enterprise must support a strike, including workers not represented by the union. Unions may strike only after the expiration of a collective bargaining agreement or to protect professional rights. Unions first must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. A strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot, and the union must name a strike committee to serve as a negotiator and send the list of names to the labor ministry, which notifies the employer. The union must wait four days from the time the labor ministry notifies the employer before beginning the strike.

There were approximately 240 maquila plants, the majority of which were located in the country's 15 EPZs. There are no special laws or exemptions from regular labor laws in the EPZs. There were credible reports that some factories in the EPZs dismissed union organizers, and there were no collective bargaining agreements among the 14 unions active in the maquila sector. Maquila workers reported verbal and physical abuse, and sexual harassment by supervisors. The government did not allocate sufficient resources for adequate inspection and oversight to ensure respect for association and collective bargaining rights in EPZs. There continued to be allegations of corruption among labor inspectors in the maquilas.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, except in the case of natural catastrophe and other instances specified by law. Although the government generally enforced this prohibition, there were problems with trafficking of persons for forced commercial sexual purposes (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14, but child labor remained a significant problem.

During the year the ILO International Program on the Elimination of Child Labor (IPEC) removed 4,476 children from work and prevented 7,654 at-risk children from entering labor activities, including worst forms of child labor, such as commercial sexual exploitation, dumpsite scavenging, and sugarcane production. This program, conducted in coordination with government agencies, constituted the government's official effort to combat child labor. The program included educational services, com-

munity awareness initiatives, community participation, institutional participation, and transitional assistance to families. The Ministry of Labor reported that it had conducted awareness training for 2,727 personnel managers.

The law limits the workday to 6 hours (plus a maximum of 2 hours of overtime) for youths between 14 and 16 years of age and sets a maximum normal workweek for youths at 34 hours. For all sectors of the economy, the law prohibits those under the age of 18 from working in occupations considered hazardous (see section 6.e.). The Ministry of Labor was responsible for enforcing child labor laws. In practice labor inspectors focused almost exclusively on the formal sector, where child labor was rare. There were no reports of child labor in the formal industrial sector.

The government did not devote adequate resources to enforce effectively child labor laws in the sugar plantations and other agricultural activities and in the large informal sector. Orphans and children from poor families frequently worked for survival as street vendors and general laborers in small businesses. The Ministry of Labor received few complaints of violations of child labor laws because many citizens perceived child labor as an essential component of family income rather than a human rights violation.

There were credible reports of trafficking in children and child prostitution (see section 5).

During the year the Ministry of Labor conducted 184 inspections, 68 follow-up visits, and issued civil penalties in 2 cases.

During the year the government's National Interagency Committee for Elimination of the Worst Forms of Child Labor received legal status, undertook a strategy to combat child labor, and improved coordination among child welfare agencies.

*e. Acceptable Conditions of Work.*—The minimum wage is set by executive decree based on recommendations from a tripartite committee comprising representatives from labor, government, and business. The minimum daily wage, last set in 2003, was \$5.28 for service employees, \$5.16 for industrial laborers, and \$5.04 for maquila workers. The agricultural minimum wage was \$2.47, with \$3.57 for seasonal agriculture industry workers. The minimum wage with benefits did not provide a decent standard of living for a worker and family.

The Ministry of Labor generally enforced minimum wage laws effectively only in the formal sector. Some maquila plants underpaid workers and failed to compensate workers for mandatory overtime. Corruption among labor inspectors and in the labor courts remained barriers to enforcing the minimum wage laws.

The law sets a maximum normal workweek of 44 hours, which is limited to no more than 6 days for all workers and requires bonus pay for overtime. The law mandates that full-time employees be paid for an 8-hour day of rest in addition to the 44-hour normal workweek. These standards were not enforced effectively. A number of workers who worked more than the legal maximum number of hours were not paid overtime. The law prohibits compulsory overtime.

The law requires all employers to take steps to ensure that employees are not placed at risk to their health and safety in the workplace, including prohibitions on the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous. Health and safety regulations were outdated, and enforcement was inadequate due to the Ministry of Labor's restricted powers and the limited resources allocated to it by the government. The law does not clearly recognize the right of workers to remove themselves from hazardous situations without jeopardy to their continued employment.

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## GRENADA

Grenada is a parliamentary democracy with a bicameral legislature. Grenada and two smaller islands, Carriacou and Petite Martinique, have a population of approximately 102 thousand. In 2003 Prime Minister Keith Mitchell's New National Party (NNP) won 8 out of 15 parliamentary seats in generally free and fair elections. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were societal problems in a few areas:

- allegations of corruption
- violence against women
- instances of child abuse

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no confirmed reports that government officials employed them. However, there were occasional allegations that police beat persons being detained. Flogging, a legal form of punishment, was rare but was used as punishment for sex crimes, which accounted for 50 percent of court cases.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards.

The government permitted visits by independent human rights observers, but none were known to have taken place during the year.

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

*Role of the Police and Security Apparatus.*—The 830-person national police force, plus an additional 200 rural constables, has a hierarchical structure and generally was effective in responding to complaints. However, lack of resources remained a problem. The police report to the minister of national security, who works in the prime minister's ministry.

There were reports of corrupt or abusive police. By year's end authorities had not charged anyone in the theft of evidence, including cocaine and money, from a secure police evidence lock-up. There were allegations against a few members of the police force involving sex crimes and several others for assault. The authorities discharged one entry-level policeman for beating up a person and another entry-level policeman for running a small brothel. In late October citing a need to improve leadership within the force, authorities relieved two senior police officials of their jobs. Investigations into police looting after Hurricane Ivan in 2004 did not result in charges brought against anyone.

The police investigated allegations of police brutality internally. The police commissioner can discipline officers (up to the rank of sergeant) in cases of brutality with penalties that include dismissal. Only the Public Service Commission can discipline officers with the rank of inspector or above.

*Arrest and Detention.*—The law permits police to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours, and this limit generally was respected in practice. The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There is a functioning system of bail, although persons charged with capital offenses are not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the governor general. In practice detainees are provided access to a lawyer and family members within 24 hours.

There were no reports of political detainees.

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

The judiciary is a part of the Eastern Caribbean legal system. There are three resident judges who hear cases in the High Court. An appeals court, staffed by a chief justice who travels between the Eastern Caribbean islands, hears appeals. Final appeal may be made to the Privy Council in the United Kingdom.

*Trial Procedures.*—The law provides for the right to a fair public trial, and the authorities generally observed this right in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person's rights upon arrest. The accused has the right to remain silent and to seek the advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser and has the right of appeal.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not represented previously or reappoints earlier counsel if the appellant no longer could afford that lawyer's services. With the exception of persons charged with a killing and foreign-born drug suspects, the courts grant most defendants bail while awaiting trial.

*Political Prisoners.*—In 2004 the High Court was set to resentence or possibly free 14 members of the “Grenada 17,” who were convicted for the 1983 murder of Prime Minister Maurice Bishop, until the government appealed the decision to the Eastern Caribbean Supreme Court. In June that court ruled that the group could take its case for resentencing to the Privy Council in London. The 14 persons remained in prison, except for one released to another country for medical treatment. In 2003 Amnesty International (AI) classified the “Grenada 17” as political prisoners based upon its findings that their original trial was unfair, and that subsequent appeals were manipulated for political reasons.

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

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

The prime minister publicly criticized the media for lack of objectivity and poor quality of its work. He successfully sued one opposition-affiliated newspaper for libel and won a large judgment against it. There was widespread reporting of allegations of corruption against the prime minister and several of his ministers.

In September the government launched the Government Information Service (GIS), a television channel that carries public service announcements, government-sponsored events, speeches by cabinet ministers, sessions of parliament, etc. The country's two other television channels are independent. Opposition spokespersons criticized the GIS as a waste of money.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitism. There was no organized Jewish community.

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

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

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

*Protection of Refugees.*—The government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they fear persecution, but does not routinely grant refugee status or asylum. Although the government could provide temporary protection to individuals who may not qualify as refugees under the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, no one sought such protection during the year.

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

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

*Elections and Political Participation.*—In 2003 the incumbent NNP administration of Prime Minister Keith Mitchell retained power by winning 8 of the 15 seats in parliamentary elections generally considered free and fair, but with some irregularities noted by the Organization of American States in several very close races.

Late in the year the government began an examination of the constitutional provisions regarding dual citizenship and qualifications for election to parliament. The result may lead to a court decision as to whether a leading opposition member's 2003 election should be nullified and his seat given to his opponent in that election.

There were 4 women in the 15-seat parliament and 4 women among the 12 appointed senators. There were six female ministers of government.

*Government Corruption and Transparency.*—There were allegations that the government attempted to divert hurricane assistance to its own NNP supporters and to constituencies with NNP parliamentarians. There were continued allegations of past corruption, especially involving the now eliminated offshore banking sector.



There are no laws mandating transparent reporting of political donations. During the year the opposition National Democratic Congress admitted that it had received \$1 million in funding from China for the 2003 election.

In August 2004 a Commission of Inquiry began to investigate whether Prime Minister Mitchell accepted money from a German citizen, reportedly in exchange for receiving a diplomatic title. The prime minister claimed the cabinet approved the money, and that it was for legitimate trade promotion expenses. At year's end the German citizen remained jailed in a foreign country on unrelated fraud charges. The commission met for two weeks in May–June, when various officers who served in the foreign ministry, as well as the prime minister's bodyguards, were questioned publicly. The commission adjourned but had not given a report by year's end.

Although there is no law providing for public access to government information, citizens may request access to any information that is not deemed classified.

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

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

The Truth and Reconciliation Commission, launched in 2001 to investigate the period between the mid-1970s and the late 1980s, had not presented its final report to the government, which was due in June 2004. The government did not react to AI's 2003 claim that the trial and sentencing of the 17 convicted leaders of the 1983 revolutionary government was flawed.

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

The law prohibits discrimination based on race, place of origin, political opinion, color, creed, or gender, and the government generally enforced these prohibitions.

*Women.*—Women's rights monitors noted that violence against women remained a serious problem. The law prohibits domestic violence and provides for penalties at the discretion of the presiding judge based on the severity of the offense. Police and judicial authorities usually acted promptly in cases of domestic violence. Sentences for assault against a spouse vary according to the severity of the incident. In practice the court enforced the law. At year's end there were three cases before the court against husbands who killed their wives. A shelter accommodating approximately 20 battered and abused women and their children operated in the northern part of the island, staffed by medical and psychological counseling personnel.

The law criminalizes rape, including spousal rape, and stipulates a sentence of flogging or up to 15 years' imprisonment for a conviction of any nonconsensual form of sex.

Prostitution is illegal but existed.

The law prohibits sexual harassment, but there are no criminal penalties for it. It is the responsibility of the complainant to bring a civil suit against an alleged harasser; there were no reported cases during the year.

Women generally enjoy the same rights as men, and there was no evidence of official discrimination in health care, employment, or education; however, women frequently earned less than men performing the same work.

*Children.*—The government was committed to children's rights and welfare. The Social Welfare Division within the Ministry of Housing, Social Services, and Cooperatives provided probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or provide foster care to children, and financial assistance to the six children's homes run by private organizations.

Education is compulsory, free, and universal until the age of 16.

Boys and girls have equal access to medical care.

Government social service agencies reported no increase in the number of cases of physical and sexual abuse of children, but stated that cases of child neglect increased during the year, compared to 2004. Abused children were placed either in a government-run home or in private foster homes. The law stipulates penalties ranging from 5 to 15 years' imprisonment for those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest.

*Trafficking in Persons.*—The law does not address trafficking in persons specifically; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons with Disabilities.*—The law does not protect job seekers with disabilities from discrimination in employment. The law does not mandate access to public buildings or services. The government expanded the provision of special education in its school system. Persons with disabilities had full access to the health care system and other public services. In the aftermath of Hurricanes Ivan and Emily, the government placed a high priority on providing assistance to those with disabilities. The government as well as nongovernmental organizations provided training and work opportunities for such persons.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent labor unions. Although employers are not legally obliged to recognize a union formed by their employees, they generally did so in practice. Labor Ministry officials estimated that 47 percent of the work force was unionized.

All major unions belong to one umbrella labor federation, the Grenada Trades Union Council, which was subsidized by the government.

*b. The Right to Organize and Bargain Collectively.*—Workers exercised the legal right to organize and to participate in collective bargaining. The law requires employers to recognize a union that represents the majority of workers in a particular business. There are no export processing zones.

The law provides workers with the right to strike, and workers exercised this right in practice.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although child labor is illegal, children sometimes worked in the agricultural sector on family farms. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforced this provision in the formal sector through periodic checks, but enforcement in the informal sector remained a problem.

*e. Acceptable Conditions of Work.*—The Labor Ministry last updated minimum wages in 2002. Minimum wages were set for various categories of workers; for example, agricultural workers were classified into male and female workers. Rates for men were \$1.85 (EC\$5.00) per hour, and for women \$1.75 (EC\$4.75) per hour; however, if a female worker performed the same task as a man, her rate of pay was the same. The minimum wage for domestic workers was set at \$148 (EC\$400) monthly. The minimum wage did not provide a decent standard of living for a worker and family. The government effectively enforced minimum wages; workers in construction-related sectors and other high-demand sectors earned far higher wages.

The law provides for a 40-hour maximum workweek. The normal workweek in the commercial sector includes Saturday morning work but did not exceed 40 hours. The law requires a premium for work above the standard workweek and prohibits excessive or compulsory overtime.

The government sets health and safety standards, but the authorities enforced them unevenly. Workers have the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

## GUATEMALA

Guatemala is a democratic republic with a population of approximately 12.7 million. In 2003 national elections, generally considered by international observers to be free and fair, Oscar Berger of the Grand National Alliance coalition (GANA) won a 4-year term, which began in January 2004. While the civilian authorities generally maintained control of the security forces, there were some instances in which members of the police force acted independently.

While the government generally respected the human rights of its citizens, serious problems remained. Corruption and substantial inadequacies in the police and judicial sectors, widespread societal violence, and impunity for criminal activity continued. The following human rights and societal problems were reported:

- unlawful killings committed by members of the security forces
- widespread societal violence, including numerous killings
- police involvement in kidnappings
- harsh and dangerous prison conditions
- arbitrary arrest and detention

- failure of the judicial system to ensure full and timely investigation, fair trials, or due process
- failure to protect judicial sector officials, witnesses, and civil society organizations from intimidation
- impunity
- discrimination and violence against women
- trafficking in persons, including commercial sexual exploitation of children
- ethnic discrimination, particularly against indigenous people
- ineffective enforcement of labor laws, including child labor provisions

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government and its agents did not commit any politically motivated killings, members of the police force committed a number of unlawful killings. A weak investigative, enforcement, and prosecutorial system, however, prevented adequate investigation of many such killings and other crimes, as well as the arrest and successful prosecution of perpetrators (see sections 1.c. and 1.e.).

During the year the National Civilian Police (PNC) Office of Professional Responsibility (ORP) investigated 24 reports of police involvement in killings.

On December 17, a transvestite was shot and killed and another injured by four individuals that some non-governmental organizations (NGOs) alleged were dressed as police officers (see section 5).

On December 7, the High Impact Court of Chiquimula convicted 2 police officers for the October 2004 beating and killing of a detainee in the police substation and sentenced each officer to 25 years in prison.

There were no significant developments regarding the August 2004 confrontation between peasants and members of the PNC at Nueva Linda plantation, in which 3 police and 7 workers were killed.

There were no new developments and none were expected concerning any investigation into the January 2004 killing of former gang member David Ixcol Escobar.

In June Colonel Luis Carvajal, former head of the Army's protocol office, was sentenced to 25 years in prison for the 2003 killing of his wife, Ingrid Lima de Carvajal. Other suspects in the case were released for lack of evidence.

On October 28, Juan Carlos Munoz Castillo was found guilty and sentenced to 40 years in prison for the 2003 killing of Josue Israel Lopez, auxiliary human rights ombudsman for Chimaltenango Province. The other defendant in the case was acquitted.

On June 2, a court convicted 5 men and sentenced them to 100 years each in prison for their involvement in the 2002 abduction and murder of Antonio Pop Caal, an activist for indigenous rights.

Most cases of political killings from past years remained unresolved, such as the 2001 killing of Luis Garcia, a witness in the 1998 killing of Bishop Juan Gerardi. On March 23, an appeals court changed the sentence for Byron Lima Estrada and Byron Lima Oliva from coauthors of the 1998 murder of Bishop Juan Gerardi to accessories, thus reducing the sentence delivered in 2001 from 30 to 20 years each in prison. The 20-year sentence of the other accessory, Father Mario Orantes, remained unchanged.

On October 22, the Supreme Court of Justice confirmed the July 2004 ruling of a lower court convicting 14 military personnel, including 1 lieutenant, to 40 years in prison each for the murder of 11 and injury of 35 civilians during the 1995 Xaman massacre.

There were no new developments regarding the search for fugitive Colonel Juan Valencia Osorio, whose 25-year prison sentence for being the intellectual author of the 1990 killing of anthropologist Myrna Mack Chang was reinstated by the Supreme Court of Justice in January 2004. At year's end Valencia had been at large for almost two years. In February the government paid its first installment to the Mack family towards the \$820 thousand (6.2 million quetzales) reparations judgment ordered by the Inter-American Court of Human Rights.

On August 29, in response to an Inter-American Court of Human Rights ruling, the government formally accepted responsibility for the kidnapping and killing of 10 university students in 1989. At year's end there remained 72 other cases involving the country before the Inter-American Court of Human Rights, most regarding events from the period of the internal armed conflict.

On July 18, the anniversary of the 1982 Plan de Sanchez massacre in which the army and paramilitary civilian self-defense patrols (PACs) killed 268 people, the

government issued a formal apology and statement of responsibility, as ordered by the Inter-American Court of Human Rights.

During her July visit, the vice president and rapporteur for Guatemala of the Inter-American Commission on Human Rights stressed the government's positive attitude in its dialogue with the organs of the Inter-American human rights system and underscored the need for the National Reparations Commission to move effectively and decisively ahead with a plan to compensate victims of the armed conflict.

On December 22, the National Reparations Program, headed by respected victims' advocate Rosalina Tuyuc, made its first disbursements of funding received from the government in May 2004 to families of victims of the internal conflict.

At year's end the case of the 1982 military massacre of 250 civilians at Dos Erres, Peten, remained stalled in court due to appeals made by defendants.

During the year eight justice workers, including two judges, were killed (see section 1.e.).

At least two protesters were killed during the year, reportedly by either security forces or fellow protesters (see section 2.b.).

On September 2, an unknown gunman killed in Guatemala City Harold Rafael Perez Gallardo, legal advisor to the NGO Casa Alianza. At year's end the matter remained under investigation by police authorities.

Societal violence was widespread. Non-state actors with links to organized crime, gangs, private security companies, and alleged "clandestine groups" committed hundreds of killings and other crimes. Human rights activists alleged that these persons also were responsible for threats, assaults, burglaries, and thefts targeted at human rights organizations. Reports also suggested that former or current members of the police condoned or were involved in some of the attacks and other abuses.

Killings, including evidence of sexual assault, torture and mutilation, of women continued at an alarming rate (see section 5).

Killings of children, particularly in Guatemala City, increased during the year (see section 5).

Police sources indicated 14 lynchings took place during the year, compared with 7 such incidents in 2004. Many observers attributed the rise in lynchings from the previous year to increased public frustration with the failure of the justice sector to guarantee security. Among the victims were civil servants or police officials who had taken unpopular actions in either enforcing or not enforcing the law.

There were also other incidents of societal violence, including the October 17 burning of a police station in San Juan Ostuncalco, Quetzaltenango Department, by a mob seeking to kill two persons suspected of stealing, who were detained in the police station.

*b. Disappearance.*—Although there were no reports of politically motivated disappearances, there were reports of police involvement in kidnappings for ransom. The PNC Office of Professional Responsibility investigated 10 police officers for involvement in kidnappings; 1 officer was found guilty and dismissed from his job with criminal charges pending at year's end. The investigations of other officers were ongoing. The Organized Crime Unit of the prosecutor's office reported that PNC elements were involved in 11 kidnapping cases, at times in cooperation with large criminal organizations.

On October 21, a criminal court convicted former PNC official Rudy Arnulfo Giron Lima, current PNC official Marvin Utrilla Marin, and four others for kidnapping the nephew of Lizardo Sosa, President of the Bank of Guatemala. Giron Lima, Utrilla Marin, and the other individual defendant, Sergio Daniel Garcia, each received 63 year sentences (see section 5). The other three defendants each received a sentence of 53 years in prison.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, during the year there were credible reports of torture, abuse, and other mistreatment by members of the PNC. Complaints typically related to the use of excessive force during police operations and arbitrary detention of suspected gang members and others targeted during extortion schemes.

There were no further developments regarding the March 2004 detention and beating of Mynor Alvarado de Leon of the NGO Center for Legal Action on Human Rights.

There were credible reports that PNC officials or persons disguised as police officers stopped cars and buses to demand bribes or steal private property. In some cases the supposed police officers assaulted and raped victims.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and dangerous. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. Prisoners complained of inadequate food and medical care. Corruption, especially drug-related,

was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest. The Institute of Comparative Studies in Criminal Sciences, an NGO dedicated to study of the justice sector, released a report during the year that indicated 80 percent of women in detention reported abuses of some kind, including at least 5 cases of rape.

Prison overcrowding was a problem. According to the registry maintained by the prison system, there were 8,247 persons held in 40 prisons and jails designed to hold 6,974. Approximately 60 percent of the national penitentiary system population was held in pretrial detention.

On August 15, gang violence within the penitentiary system claimed 36 lives in 4 prisons. Prisoners from opposing gangs attacked each other with shotguns and edged weapons that were smuggled into the prison, in some cases reportedly with the knowledge of prison guards. The incident followed months of press reports regarding the availability of contraband items within prisons, including weapons. The special rapporteur on the rights of persons deprived of liberty of the Inter-American Commission on Human Rights stated that the "serious structural problems of the prison system together with the especially precarious conditions in which juvenile offenders were incarcerated and the lack of effective controls to prevent the entry of weapons in the detention centers were contributing factors to the violent events of August 15." At year's end the incident and the identities of those persons responsible for smuggling weapons into the prisons remained under investigation. During the year attempts by prison authorities to segregate inmates by gang affiliation did not resolve violence issues in the prison system.

On September 19, an outbreak of violence between gang member inmates at the San Jose Pinula Juvenile Detention Center claimed the lives of 14 juvenile inmates; violence at the Departmental Rehabilitation Center of Puerto Barrios, Izabal, claimed the lives of 3 adult inmates. The incidents were under investigation at year's end.

On December 16, an intra-gang dispute in a prison in Mazatenango resulted in the killing of one gang member inmate. The incident remained under investigation at year's end.

On rare occasions male and female detainees in immigration facilities were held together. Pretrial detainees sometimes were held in the same prison blocks with the general prison population.

The government permitted prison monitoring visits by local and international human rights groups, the Organization of American States, public defenders, religious groups, and family members, and such visits took place throughout the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but there were credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers often failed to satisfy legal requirements due to the failure of magistrates to receive the case within the legally-mandated timeframe of six hours.

*Role of the Police and Security Apparatus.*—The 18,000-member PNC, headed by a director appointed by the president, remained understaffed, poorly trained, and severely underfunded. During the year the Public Ministry determined that the death of a PNC officer, during July 2004 police officer protests about poor living conditions at the Police Academy, was a suicide.

Police corruption was a serious problem and there were credible allegations of involvement by individual police officers in criminal activity, including rapes, killings, and kidnappings. Police impunity remained a problem. When ORP investigations failed to elicit successful administrative or judicial punishment, the PNC often transferred suspected officers to different parts of the country. Attempts to curb impunity included placing 1,200 officers in employment dismissal proceedings.

While no active members of the military served in the police command structure, the government continued to employ the military to support the police in response to the rising rates of violent crime. Joint police and military operations under operational control of the PNC continued in areas of the capital with the highest crime rates.

Police threatened persons engaged in prostitution and other commercial sexual activities with false drug charges to extort money or sexual favors and harassed homosexuals or transvestites with similar threats of false charges (see section 5). Critics accused the police of indiscriminate and illegal detentions when conducting antigang operations in specific high-crime neighborhoods. Suspected gang members allegedly were arrested and imprisoned without charges or on the basis of false drug charges, and in some instances were arrested without a warrant and not in the commission of a crime.

The ORP performed internal investigations of misconduct by police officers. Although the ORP has increased its professionalism in recent years, its independence and effectiveness were hampered by a lack of material resources and the absence of cooperation from other PNC units. The ORP reported that by year's end, it had received 1,653 complaints, which included: 31 homicides, 411 thefts, 29 rapes, 269 cases of corruption or bribery, 91 threats, and 30 illegal detentions.

Although cases with sufficient evidence of criminal activity were forwarded to the Public Ministry for further investigation and prosecution, few cases went to trial. Throughout the year ORP investigations resulted in the removal from duty of 532 police officers and exoneration of 81 officers.

Immigration and police officials often subjected persons attempting to enter the country illegally to extortion and mistreatment. Many civil society and media observers believed this mistreatment was underreported.

During the year the PNC trained 1,243 cadets in courses that included human rights and professional ethics. The military continued to incorporate human rights training into its curriculum and developed relevant courses with the Office of the Human Rights Ombudsman. Civil affairs officers at each command were required to plan and document human rights training provided to soldiers, and the officers met this requirement during the year.

Approximately two-thirds of the police districts remained understaffed. Indigenous rights advocates asserted that police authorities' continuing lack of sensitivity to indigenous cultural norms and practices engendered misunderstandings in dealing with indigenous groups and that few indigenous police officers worked in their own ethnic-linguistic communities.

*Arrest and Detention.*—The law requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless the suspect was caught in the act of committing a crime. Police may not detain a suspect for more than six hours without bringing the case before a judge. Detainees often were not promptly informed of the charges filed against them. Once a suspect has been arraigned, the prosecutor generally has three months to complete the investigation and file the case in court or seek a formal extension of the detention period. The law provides for access to lawyers and bail for most crimes. The government provided legal representation for indigent detainees, and detainees had access to family members.

There was no reliable data on the number of arbitrary detentions, although most accounts indicated that police forces routinely ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operation.

There were no reports of political detainees.

Although the law sets a limit of three months for pretrial detention, prisoners often were detained past their legal trial or release dates, sometimes for years. During the year 60 percent of those incarcerated were in pretrial detention. Some prisoners were not released in a timely fashion after completing their full sentences due to the failure of judges to issue the necessary court order or to other bureaucratic problems. A judge has the discretion to determine whether bail is necessary or permissible for pretrial detainees depending on the circumstances of the charges. Detainees who are offered bail but are unable to pay, or choose not to pay, must remain in jail.

*e. Denial of Fair Public Trial.*—While the law provides for an independent judiciary, the judicial system often failed to provide fair or timely trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The majority of serious crimes were not investigated or punished. Many high-profile criminal cases remained pending in the courts for long periods as defense attorneys employed successive appeals and motions.

During the year there were numerous reports of corruption and manipulation of the judiciary. Judges, prosecutors, plaintiffs, and witnesses also continued to report threats, intimidation, and surveillance. The special prosecutor for crimes against justice sector workers received 79 cases of threats or aggression against judges, compared with 61 in 2004. During the year eight judicial sector workers were killed by unknown assailants. For example, on March 21, Justice of the Peace Jose Antonio Cruz Hernandez was killed in San Pedro Ayampuc. On April 25, High Impact Court Judge Jose Victor Bautista Orozco was killed in San Marcos in front of his house. At year's end each of these cases was under investigation. There were credible reports of killings of witnesses. Less than 3 percent of reported crimes were prosecuted, and significantly fewer received convictions.

There were no significant developments regarding the July 2004 killing of Jesus Mendoza, cousin of Bamaca case witness Otoniel de la Roca Mendoza.

The Supreme Court of Justice continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its

jurisdiction. During the year the Judicial Discipline Unit investigated and held hearings for 147 of 597 complaints of wrongdoing, with the result that 60 claims were found to be baseless, 45 magistrates received written or verbal warnings including suspensions, 7 judges were fired, and the remaining cases were still under investigation at year's end.

Prosecutors remained susceptible to intimidation and corruption. The law's failure to delineate between the PNC and the Public Ministry in taking responsibility for investigating crimes led to organizational rivalries and the duplication of investigative efforts. An estimated 3 percent of approximately 250 thousand complaints filed with the Public Ministry during the year were prosecuted.

The judiciary consisted of the Supreme Court of Justice, appellate courts, trial courts, and probable-cause judges (with a function similar to that of a grand jury), as well as courts of special jurisdiction, including labor courts and family courts. More than 350 justices of the peace were located throughout the country. Some of the justices specialized in administering traditional and indigenous law in community courts, which were under the jurisdiction of the Supreme Court of Justice. The Constitutional Court, which reviews legislation and court decisions for compatibility with the constitution, is independent of the rest of the judiciary.

Between January and August, the Public Ministry had approximately 50 persons in its witness protection program.

*Trial Procedures.*—The law provides for the right to a fair, public trial, the presumption of innocence, the right to be present at trial, the right to counsel, plea-bargaining, the possibility of release on bail and the right to an appeal. Three-judge panels render verdicts. The law provides for oral trials, and requires language interpretation for those needing it, in particular the large number of indigenous persons who were not fluent in the Spanish language (see section 5). Inadequate government funding allocations limited the effective application of this legal requirement. The Public Ministry concentrated 16 interpreters in former conflict areas of the country, and the Office of the Public Defender employed 9 bilingual public defenders who were assigned to areas where they could serve as translators in addition to defending clients.

The Public Ministry, semi-independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as co-plaintiffs. Lengthy investigations and frequent procedural motions used by both defense and prosecution often led to excessively long pretrial detention (see section 1.d.), frequently delaying trials for months or years.

*Political Prisoners.*—There were no reports of political prisoners. Several former government officials imprisoned on corruption charges, including former vice president Reyes Lopez, claimed that the charges against them were politically motivated.

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

Human rights defenders alleged that individuals affiliated with clandestine armed groups participated in a number of illegal entries into their homes and offices. The Public Ministry investigated a number of these cases but failed to identify suspects for prosecution.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

On April 5, Tenth Sentencing Tribunal judges sentenced Juan Carlos Rios Ramirez, Enma Concepcion Samayoa de Rosales, Ana Cristina Lopez Kestler, Vilma Orellana Ruano, and Elvia Morales de Lopez each to three years in prison under the country's antidiscrimination law. The five were convicted for making racist insults against indigenous activist Rigoberta Menchu at a 2003 Constitutional Court hearing.

Although the independent media, including international media, operated freely and were active and expressed a wide variety of views without government restriction, there were reports that members of the media were targets of threats and intimidation from unidentified persons. The Office of the Human Rights Ombudsman reported 26 incidents of intimidation against journalists through October, compared with 40 during 2004.

Reporters Without Borders reported that on July 11, former members of the civil defense patrols assaulted *Prensa Libre* correspondent Edwin Paxtor with machetes while he filmed a demonstration in Chiquimula Department. Paxtor also claimed to

have received anonymous death threats on September 23. The threats were reported to the ombudsman.

There were no further developments and none were expected concerning an investigation into the May 2004 beating of David Hernandez Rubio by two men. At the time of the beating, Hernandez Rubio and his brother Hector Ramirez were petitioning the Inter-American Commission on Human Rights for personal protection in relation to threats received by their family allegedly in connection with their father's work as a journalist.

The Public Ministry prosecuted two suspects connected with the 2003 home invasion of daily *El Periodico* publisher Jose Ruben Zamora. On February 25, one of the two defendants was convicted of illegal entry, threats, extortion, illegal detention, and theft, and was sentenced to 16 years in prison. At year's end this defendant had appealed the conviction, but remained in custody. The other defendant was acquitted, even though the evidence against both defendants appeared identical.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—Whereas the law provides for freedom of assembly, and the government generally respected these rights in practice, there were some allegations of unnecessary use of force or inaction by the police during violent demonstrations.

On January 11, police dispersed protesters with tear gas and riot control units during an anti-mining protest in the Solola Department in which protesters burned vehicles, destroyed property, and attacked passers-by, including journalists covering the event. Approximately 20 persons were injured, including several police officers, and 1 person was killed by gunfire. The police investigation and media reports concluded that the police lost control of the situation and reacted inappropriately but that a stray bullet from other protesters who had been firing guns into the air killed the protester.

From March 1 to 15, a series of violent protests occurred in the capital, during which demonstrators threw rocks at bystanders, set fires, blocked roads and destroyed property. The press reported that the police used force in response to violent actions by protesters. The police overreacted in at least one instance in which officers beat a protestor who was committing an act of vandalism. Photos and video showed protestors setting fires to barriers and throwing rocks and bottles at police.

On March 15, during a protest in Huehuetenango Department, a protestor was shot and killed during a confrontation between armed protesters and police on a bridge. The final report of the investigation was not released by year's end.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination against persons for their religious beliefs or practices, including anti-Semitic acts. The Jewish population was approximately two thousand persons.

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

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

The law prohibits forced internal and external exile, and the government did not use exile in practice. Self-imposed exile, however, was an occasional response by citizens who felt threatened or intimidated.

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

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage for those 18 years of age and older. Members of the armed forces and police are not permitted to vote.



In the 2003 national elections, Oscar Berger of the GANA coalition won a 4-year term as president with approximately 54 percent of the vote. In the period leading up to those elections, at least 29 candidates for lower offices were killed. Despite some irregularities in the electoral registry, the Organization of American States' (OAS) international observation mission categorized the elections as generally free and fair.

There were 14 women in the 158-seat Congress of the Republic, 2 women on the Supreme Court of Justice and 1 woman in the rotating alternative position on the Constitutional Court. In October the justices of the Supreme Court of Justice elected for the first time a woman as president of that tribunal. There were 197 women serving as judges. There were two female ministers in the cabinet and six female presidential secretaries. Of the country's 331 mayors, 9 were women. There was 1 indigenous member in the cabinet, and 1 of 12 presidential secretaries was indigenous. There were 15 indigenous members of the 158-seat Congress of the Republic. Of the 331 mayors, 120 were indigenous people.

*Government Corruption and Transparency.*—Government corruption was widely perceived to be a serious problem, although according to the NGO Transparency International, public perception of corruption decreased slightly compared with 2004. At year's end the July 2004 charges of fraud against former Vice President Reyes Lopez remained pending. During the year the Public Ministry continued corruption investigations against former president Alfonso Portillo, former minister of government Byron Barrientos, and other senior members of the previous government. On December 22, authorities arrested Jorge Mario Nufio, congressional representative on the Social Security Institute's (IGSS) Board of Directors, after two years at large. Nufio had been in hiding since 2003, after inspections revealed that approximately \$46 million (350 million quetzals) was missing from IGSS funds.

On October 4, authorities convicted former comptroller general Oscar Dubon Palma of money laundering and embezzlement and sentenced him to 17 years in prison.

On August 8, a criminal court absolved former head of the IGSS Carlos Wohlers on corruption and abuse of authority charges. Government prosecutors appealed the decision, based on procedural issues. At year's end the appeal remained pending.

On March 30, former minister of finance Eduardo Weymann was found guilty of material falsification in the illegal transfer of \$5 million (38 million quetzales) from tax authorities. Weymann was sentenced to three years in prison, which was commuted to a fine of \$12 (90 quetzales) per day. At year's end the case was under appeal.

On February 24, the Public Ministry charged Arnoldo Heriberto Quezada Chapeton, director of the National Transit Authority, with corruption for receiving approximately \$20 thousand (156 thousand quetzales) from a driving education school. At year's end Quezada Chapeton remained at large after failing to appear at a September 1 pretrial hearing.

Former ministers of defense Eduardo Arevalo Lacs and Alvaro Lionel Mendez Estrada remained under investigation for corruption, and judicial authorities restricted their movements. Both were accused of embezzling \$121 million (906 million quetzales) from Ministry of Defense funds between 2001 and 2003.

A general freedom of information law remained stalled in Congress, and there were no other established mechanisms to enable citizens or non-citizens access to government information.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Many NGOs and human rights workers and a number of trade unionists (see section 6.a.) reported threats or intimidation by unidentified persons and complained that the government did little to investigate these reports or to prevent further incidents. Only a small number of these cases were officially reported to authorities.

In July a resident Office of the UN High Commissioner for Human Rights (UNHCHR) opened at the government's invitation, with the mandate to provide the government with counsel and technical assistance to investigate and prosecute human rights abuses.

The government regularly provided security to homes and offices of human rights activists who received threats. The Myrna Mack Foundation and the Guatemalan Forensic Anthropology Foundation, for example, each received ongoing security protection through the end of the year.

During the year the Office of the Special Prosecutor for Human Rights opened 47 new cases, including matters involving anonymous telephoned or written threats, break-ins, physical assaults, as well as surveillance of workplaces, residences, and vehicular movements. The majority of such cases remained pending for lengthy periods without investigation or languished in the court system as defense attorneys filed successive motions and appeals to delay trials.

At year's end there were no further developments and none were expected regarding an investigation by the Public Ministry concerning several threatening phone calls received in July 2004 by the gay rights group Lesbirades.

Substantial threats were made against the lives and safety of persons involved in the exhumation of secret mass graves containing the bodies of victims of the 36-year internal armed conflict that concluded with the signing of peace accords in 1996. Forensics groups used the information obtained from the exhumations to verify eyewitness reports of massacres—of which the Commission for Historical Clarification recorded 669—and to charge alleged perpetrators of the massacres.

In August and September staff members of the Guatemala Forensic Anthropology Foundation (FAFG) received death threats including an incident on August 26, during which an unknown gunman confronted a family member of the foundation's director. There were also written threats against FAFG staff members for their forensics analysis work. The PNC provided protective details to the foundation and its staff through the end of the year.

The Committee of Guatemalan Widows, an organization of widows of the victims of the internal armed conflict, reported an August 15 death threat related to its exhumation activities. By year's end the government had not undertaken an investigation of this incident.

In January the Constitutional Court issued a final ruling that payments to former PAC members for services during the armed conflict were unconstitutional. As a result, PAC leaders publicly threatened human rights organizations during the year for launching legal challenges contesting these payments. In response to the threats, the government provided temporary police protection for several weeks to the organizations. At year's end there were no developments regarding an investigation by the authorities concerning these threats.

In July an OAS Inter-American Human Rights Commission rapporteur for Guatemala visited and noted with concern the increased level of violence, the persistence of serious shortcomings in the justice system, and the structural problems affecting full respect for human rights, all of which were aggravated by a lack of adequate protective measures and general impunity.

In January the Ministry of Government revealed an alleged plot to kill Bishop Alvaro Ramazzini, a prominent human rights activist. Police authorities conducted an investigation, but did not find any evidence to corroborate the threat.

Human Rights Ombudsman Sergio Morales, elected by the Congress of the Republic, reports to Congress and monitors the rights recognized under the constitution. The ombudsman's rulings do not have the force of law. The Office of the Human Rights Ombudsman operated without government or party interference and had adequate resources to undertake its duties. The office had the government's cooperation, and issued reports and recommendations that were made public, and the government responded to these reports.

At year's end there were no developments in the investigation to identify individuals who made threats in 2004 against ombudsman office field staff.

On September 17, a court absolved four former security guards and one other suspect in relation to a 2003 burglary of the ombudsman's office.

The President's Commission on Human Rights (COPREDEH), directed by human rights leader Frank La Rue, is charged with formulating and promoting the government's human rights policy, representing the government for past human rights abuse cases before the Inter-American Court of Human Rights, and negotiating amicable settlements in those cases before the Inter-American Commission on Human Rights. COPREDEH took a leading role in coordinating police protection for various human rights and labor activists throughout the year.

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

Whereas the law prohibits discrimination based on race, gender, disability, language, or social status, in practice the government frequently did not enforce these provisions due to inadequate resource allocations, corruption, and a dysfunctional judicial system (see sections 1.c. and 1.e.).

*Women.*—Violence against women, including domestic violence, remained a common and serious problem. The law prohibits domestic abuse, but does not provide prison sentences for cases of domestic abuse. Prosecutors noted that the law permits the charging of abusers with assault only if bruises from the abuse remained visible

for at least 10 days. The law provides for the issuance of restraining orders against alleged aggressors, police protection for victims, and requires the PNC to intervene in violent situations in the home. In practice, however, the PNC often failed to respond to requests for assistance related to domestic violence. Women's groups noted that few officers were trained to deal with domestic violence or provide victims' assistance.

The Program for Prevention and Eradication of Intrafamily Violence, a government program under the Presidential Spouse's Secretariat of Social Work, reported receiving approximately four calls a day via its emergency hot line from battered women and children. The Public Ministry reportedly received more than 13,703 complaints of family violence against women and children through September. During the year the Public Ministry achieved convictions in 105 of the 3906 cases it opened during the year.

Justices of the peace issued 1,364 orders of restraint against domestic violence aggressors and police protection for victims. Full investigation and prosecution of domestic violence and rape cases usually took an average of one year, and prosecutors noted that half of the victims of domestic violence who filed complaints failed to pursue their cases after their initial visit to the Public Ministry. The Network for Non-violence against Women estimated that 90 percent of incidents went unreported. The Public Ministry handled 9,267 cases against perpetrators of domestic violence, but there was no information on the number of prosecutions or convictions. Abusers were prosecuted, convicted, or otherwise punished. Although the law affords victims of domestic violence with protection, such as shelter, during the period of investigation, in practice there were insufficient facilities for this purpose.

The ombudsman for indigenous women provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. This office also coordinated and promoted action by government institutions and NGOs to prevent violence and discrimination against indigenous women but lacked human resources and logistical capacity to perform its functions on a national level. The office handled 440 cases from January until August and 3,159 cases since 2002, including labor conflicts and domestic violence.

Sexual offenses remained a serious problem. The law prohibits rape, including spousal rape and aggravated rape, and establishes penalties between 6 and 50 years in prison. Prosecutors from the Special Unit for Crimes against Women noted that reports of rapes had increased by 30 percent over the past 4 years, although some observers suggested that the increases might reflect improved record-keeping of crime statistics. Until 2004 the law provided that a rapist could escape charges by marrying the victim. Although the law no longer allows for this, judicial processes that were entered into before the law changed are judged according to the old law. During the year there were cases in which this occurred.

Police had minimal training or capacity for investigating or assisting victims of sexual crimes. The government maintained a PNC Special Unit for Sex Crimes, an Office of Attention to Victims, and a Special Prosecutor for Crimes against Women, Children, and Trafficking in Persons, but none of these units were effective in addressing sexual violence. The PNC in Guatemala Department reported opening 420 cases against sexual offenders and making 76 arrests relating to sexual violence. The Public Ministry reported achieving a nationwide total of 80 convictions out of 1,001 cases of rape and sexual abuse of women and minors it received through September. The UN Children's Fund (UNICEF) observed that rape victims sometimes did not report the violations for lack of confidence in prosecutions and fear of reprisals.

Between January and October the prosecutor's office reported receiving 749 cases of rape and sexual assault in Guatemala City. Of these, 84 cases went to trial resulting in 68 convictions with an average sentence of 6 to 20 years' imprisonment; 11 persons were absolved; and 5 cases were settled out of court.

During the year there was a significant increase in reports of disappearances and killings of women. At year's end the PNC reported 545 killings of women (among the 665 open police cases of suspicious deaths of women), compared with 531 during the year 2004. A number of the victim's bodies bore evidence of torture, sexual assault, and mutilation. Although the PNC attributed gang violence, narcotics trafficking, and domestic abuse as the probable causes for many of the killings, authorities were unable to identify the perpetrator or motives for approximately half of the killings. The killings of women as a percentage of total killings rose from 12 percent in 2004 to 12.5 percent during the year. Due to weaknesses throughout the judicial and law enforcement systems, including inadequate governmental allocation of resources to the PNC task force, police investigations of killings of women and of homicides generally were ineffective, resulting in the erosion of public confidence in these governmental institutions.

Although prostitution is legal, procuring and inducing a person into prostitution are crimes that can result in fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and minors, primarily for the purpose of prostitution, is illegal and was a broadly recognized problem (see section 5, Trafficking).

Sexual harassment is not specified as a crime in the penal code, and during the year there were no accurate estimates of the incidence of sexual harassment. Human rights organizations reported, however, that sexual harassment was widespread, especially in industries in which the workforce was primarily female, such as the textile and apparel assembly sector. While the law establishes the principle of gender equality, in practice women faced job discrimination and were less likely to hold management positions. The 2002 National Study on Income and Spending, the most recent available, showed that indigenous women earned 58 percent of what indigenous men earned and that nonindigenous women earned 71 percent of what nonindigenous men earned. Women were employed primarily in low-wage jobs in the textile and apparel industries, agriculture, retail businesses, service sector, and the government, and were more likely than men to be employed in the informal sector, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men, including in situations involving divorce.

The Secretariat for Women's Affairs advised the president on the coordination of policies affecting women and their development, but did not undertake any concrete actions during the year to combat discrimination against women.

*Children.*—The government devoted insufficient resources to ensure adequate educational and health services for children.

Although the law provides for free compulsory education for all children up to the sixth grade, less than half the population had received a primary education. The UN Development Program's (UNDP) 2003 Human Development Report estimated that 40 percent of children who entered primary school finished their third year and 30 percent were promoted beyond sixth grade. Completion rates were lower in rural and indigenous areas. According to the Population Council's annual report, the average education level attained varied widely based on background and geographic region: the average nonindigenous child received 4.2 years of schooling. Indigenous children received an average of 1.3 years.

Boys and girls had equal access to medical care. UNICEF statistics reported that 67 percent of indigenous children suffered from chronic malnutrition.

Child abuse remained a serious problem. The Public Ministry reported 798 cases of child abuse during the year. The Social Secretariat for the Welfare of Children, with oversight for children's treatment, training, special education and welfare programs provided shelter and assistance to children who were victims of abuse but sometimes placed children under its care in shelters with other youths who had criminal records. Due to overload in the public welfare system, family courts during the year referred 165 girls to Casa Alianza, an NGO that focused on issues regarding street children; an additional 123 entered voluntarily as a result of street sweeps. The Special Prosecutor's Office for Women included a unit that investigated only child abuse cases.

Child prostitution was a problem (see section 5, Trafficking and section 6.c.).

Child labor was a widespread and serious problem. According to the International Labor Organization (ILO), almost one quarter of children had to work to survive (see section 6.d.).

Credible estimates put the number of street children at five thousand nationwide, approximately three thousand of them in Guatemala City. Most street children ran away from home after being abused. Casa Alianza reported that increased gang recruitment decreased the number of street children in the capital, because after joining a gang, street children often lived with fellow gang members and no longer slept on the streets. Casa Alianza reported that from January until mid-November, 334 children were killed in Guatemala City, compared with 173 killed during 2004. Criminals often recruited street children for purposes of stealing, transporting contraband, prostitution, and illegal drug activities. Approximately 10 thousand children were members of street gangs. NGOs dealing with gangs and other youth reported concerns about abusive treatment, including physical assaults, by police of street youth upon apprehension or in custody (see section 1.d.).

The government maintained one shelter each for girls and boys in Guatemala City, providing housing for the homeless. The government devoted insufficient funds to these two youth centers, and governmental authorities often preferred to send juveniles to youth shelters operated by Casa Alianza and other NGOs. The government provided no funding assistance for shelter costs to these NGOs. Juvenile offenders were incarcerated at separate youth detention facilities.

*Trafficking in Persons.*—While the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. In February the Congress of the Republic passed legislation which criminalizes all forms of trafficking, expands the definition of persons responsible for trafficking offenses, and mandates jail time for traffickers. The government acknowledged that trafficking was a significant and growing problem in the country.

In March the Public Ministry created an Office of Special Prosecutor for Crimes against Women, Children, and Victims of Trafficking. During the year a task force, which included the Office of the Special Prosecutor, immigration authorities, PNC, and Casa Alianza, conducted 12 bar raids. Although the office opened 45 new cases against traffickers, by year's end it had achieved no convictions specifically for trafficking, but had achieved 6 convictions for the lesser offense of procurement. None of the persons convicted for procurement received jail sentences.

The country cooperated with Mexico on an annual work plan to care for victims and regularize cooperation between the respective government agencies. This cooperation included ensuring that the repatriation of trafficking victims was handled separately from deportations. The country had repatriation agreements for minor victims of trafficking with El Salvador, Nicaragua, Honduras, Costa Rica, and Panama.

The country was a source, transit, and destination country for its own nationals and other Central American women and children trafficked for purposes of sexual exploitation and child labor. One 2004 NGO report identified 600 to 700 minors who were victims of trafficking in centers of prostitution across the country. There were no reliable estimates of forced labor trafficking, mainly involving children used in begging rings in Guatemala City.

Trafficking was particularly a problem in the capital and in towns along the borders with Mexico and El Salvador. Child migrants who did not cross the border into Mexico often remained in the country and resorted to or were forced into prostitution. Many women and children also were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings that forced them into prostitution. The primary target population for sexual exploitation was minor boys and girls or young women from poor families. Traffickers often approached individuals with promises of economic rewards, jobs in cafeterias or beauty parlors, or employment in other countries. The means of promotion included flyers, newspaper advertisements, and verbal or personal recommendations.

Brothel owners often were responsible for transporting and employing victims of trafficking. Traffickers frequently had links to other organized crime, including drug trafficking and migrant smuggling.

There were credible reports that police and immigration service agents were complicit in trafficking of persons. In a 2002 study by the NGO End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes, the most recent available, some minor victims of trafficking reported that immigration officials took bribes from traffickers, gave the victims falsified identification papers, and allowed them to cross borders. There were credible reports that brothel owners allowed police and migration officials to have sex with minor victims without charge. There were no further developments regarding the investigation of former PNC official Rudy Giron Lima's ownership of three bars where underage persons were engaged in prostitution. In May 2004 a court sentenced Giron Lima to 63 years in prison on unrelated kidnapping charges (see section 1.b.).

The Secretariat for Social Welfare, a government institution, operated two shelters, one in Guatemala City and the other in the city of Quetzaltenango that housed victims of trafficking and offered social casework, job training, and counseling.

Immigration officials generally deported adult trafficking victims but did not treat them as criminals. From February to December, immigration officials deported 96 women found during bar raids back to Honduras, Nicaragua, and El Salvador. Victims were not prosecuted and were not required to testify in cases against traffickers.

During the year the government undertook significant efforts to address the problem of trafficking in persons, including increased attention to rescuing minors from commercial sexual exploitation in bars, brothels, and other establishments. The government released minor trafficking victims rescued in bar raids primarily to the custody of Casa Alianza, which provided shelter, medical treatment, psychological counseling, and job training. Other NGOs provided similar services and, along with Casa Alianza, lobbied for legislation, protection of victims, and prevention of trafficking.

*Persons with Disabilities.*—The law contains no specific prohibitions against discrimination based on physical disability in employment, education, access to health care, or the provision of other state services. The law, however, mandates equal access to public facilities, and provides some other legal protections, such as equal hir-

ing opportunities. In many cases persons with physical and mental disabilities did not enjoy these rights, and the government devoted few resources to combat this problem. A 2004 report by the International Disability Rights Monitor, the most recent available, noted that the government discriminated against persons with disabilities by not providing adequate protection.

There were scant educational resources for those with special needs, and the majority of universities were not made accessible to persons with disabilities. The National Hospital for Mental Health, the principal health care provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing. Although the National Council for the Disabled, composed of representatives of relevant government ministries and agencies, met regularly to discuss initiatives, the government devoted no resources to the implementation of the council's recommendations.

*Indigenous People.*—Indigenous people from approximately 22 ethnic groups constituted an estimated 43 percent of the population. In addition to the many Mayan communities, there were also the Garifuna, descendants of Africans brought to the Caribbean region as slaves who intermarried with Amerindians, and the indigenous Xinca community. The law provides for equal rights for indigenous people and obliges the government to recognize, respect, and promote their lifestyles, customs, traditions, social organization, and manner of dress. Although some indigenous people attained high positions as judges and government officials, they generally were underrepresented in politics, and remained largely outside the country's political, economic, social, and cultural mainstream due to limited educational opportunities, poverty, and pervasive discrimination.

A 2004 World Bank study, the most recent available, found that 76 percent of the indigenous population lived in poverty, compared with 41 percent of the non-indigenous population.

Rural indigenous persons had limited educational opportunities and fewer employment opportunities. Many of the indigenous were illiterate, and approximately 33 percent did not speak Spanish. More than 50 percent of indigenous women were illiterate; and a disproportionate number of indigenous girls did not attend school (see section 5, Women and Children). According to the most recently available Ministry of Education report, 273,628 preschool and kindergarten aged indigenous children were enrolled in bilingual education programs during 2004. The government devoted less than 10 percent of the total budget to bilingual education. During the year the Population Council reported that indigenous people completed 1.3 years of school on average, compared with 4.2 years for non-indigenous persons.

The Ministry of Labor's Department of Indigenous People, tasked with investigating cases of discrimination, representing indigenous rights, and promoting implementation of ILO Convention 169 on the rights of indigenous people, counseled indigenous persons on their rights. During the year, however, this department had no separate budget, only four employees, and lacked resources to investigate any discrimination claims.

Legally mandated court interpreters for criminal proceedings often were not available, placing indigenous people arrested for crimes at a disadvantage due to their limited comprehension of Spanish (see section 1.e.). There were 63 judges who spoke Mayan languages among the 561 tribunals in the country. There were 62 court interpreters, and the Supreme Court of Justice reported that the judicial system had 689 employees who spoke indigenous languages. In many instances bilingual judicial personnel continued to be assigned to areas where their second language was not spoken. The public defender's Office of Indigenous Defense, which coordinated interpretation and legal assistance in indigenous languages, ran out of funds on July 1. A skeleton staff continued working while the office sought governmental budgetary support, but the government undertook no further interpretation or legal assistance efforts and the future existence of the office was in question at year's end.

*Other Societal Abuses and Discrimination.*—The law does not criminalize homosexuality, but it also does not expressly include sexual orientation or HIV status among the categories prohibited from discrimination. There was social discrimination against gay, lesbian and transgender persons and persons with HIV/AIDS. Homosexual rights support groups alleged that members of the police regularly waited outside clubs and bars frequented by sexual minorities and demanded that patrons and persons engaged in commercial sexual activities provide protection money. These groups also complained that police at times raped lesbians and transvestites, but that due to a lack of trust in the judicial system and out of fear of further persecution or social recrimination, victims were unwilling to file complaints.

On December 17, transvestite Juan Pablo Mendez Cartagena was shot and killed, and transvestite Kelvin Josue Alegria Robles was seriously injured in Guatemala City by persons that members of the homosexual rights group OASIS alleged were wearing police uniforms. At year's end the matter was under investigation by police authorities.

*Section 6. Worker Rights*

*a. The Right of Association.*—While the law provides for freedom of association and the right to form and join trade unions, in practice, enforcement remained weak and ineffective. With the exception of members of the security forces, all workers have the right to form or join unions, but less than 3 percent of the formal sector work force was unionized.

Legal recognition of a new industry-wide union requires that the membership constitute 50 percent plus one of the workers in an industry. In its annual report, the ILO Committee of Experts identified this requirement as among “restrictions on the formation of organizations in full freedom,” and labor rights activists considered this number to be a nearly insurmountable barrier to the formation of new industry-wide unions.

Enforcement of legal prohibitions on retribution for forming unions and for participating in trade union activities was weak. To hold union office, the law requires that a person must be both a citizen of the country and actively employed by the enterprise or economic activity. The ILO Committee of Experts viewed this as a restriction “on the right to elect trade union leaders in full freedom.” Many employers routinely sought to circumvent legal provisions for union organizing by resisting union formation attempts or by ignoring judicial orders to enforce them. An ineffective legal system and inadequate penalties for violations continued to undermine enforcement of the right to form unions and participate in trade union activities.

There were credible reports of retaliation by employers against workers who tried to exercise internationally recognized labor rights. By year's end there were no new developments regarding the status of a 2004 case involving 20 workers dismissed by the Secretariat for Social Welfare while trying to form a public sector union, despite a court order calling for their reinstatement.

Some workers who suffered illegal dismissal took their cases to the labor courts and won injunctions ordering reinstatement. The law requires employers to reinstate workers dismissed illegally for union organizing activities. In practice employers often failed to comply with reinstatement orders. Appeals by employers, along with legal recourse such as re-incorporation as a different entity, often prolonged reinstatement proceedings. The labor courts rarely dismissed frivolous appeals, and did not operate in a timely manner, or ensure enforcement of their decisions. According to labor ministry officials, employers rarely were disciplined for ignoring legally binding court orders.

The annual ILO Committee of Experts report noted “problems relating to the shortcomings in the functioning of justice, and particularly the slowness of procedures and the failure to comply with court orders relating to acts of antiunion discrimination.”

Labor leaders reported receiving death threats and other acts of intimidation. A 3-prosecutor Office of the Special Prosecutor for Crimes Against Unionists and Journalists accepted 42 new union-related cases during the year, thereby raising its total case load to more than 370 (see section 4). During the year prosecutors secured no convictions for crimes against trade unionists and often claimed that they had minimal evidence to prosecute such cases.

During the year the Ministry of Labor granted legal status to 42 new labor unions. Although there were 1,698 legally registered labor unions, fewer than 400 appeared to be active based on administrative register records.

An active solidarity association (*solidarismo*) movement claimed to have approximately 170 thousand members; its advocates claimed that these associations operated in an estimated 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between them or to belong to both. The government characterized these associations as civic organizations that need not interfere with the functioning of trade unions. Although the law stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers, unions charged that management promoted solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. Representatives of most organized labor groups criticized these associations for their inability to strike, having inadequate grievance procedures, and for displacing genuine, independent trade unions with an employer-dominated structure.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the government generally strove to

protect this right in practice. The law requires that union members approve a collective bargaining agreement by simple majority. Although workers had the right to organize and bargain collectively, the small number of unionized workers limited the practice of organizing and bargaining. In its annual report, the ILO Committee of Experts requested that the government “take measures to promote collective bargaining in the country and to ensure that effect is given in practice to concluded collective agreements.”

In a factory or business, 25 percent of the workers must be union members for collective bargaining to take place. Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law.

According to the Ministry of Labor, there were 65 collective bargaining agreements (covering more than 15 thousand unionized workers and many thousands of non-unionized workers), primarily in the public sector.

Workers have the right to strike, but due to the very low level of unionization and procedural hurdles, there were no legal strikes during the year. The law requires approval by simple majority of a firm’s workers to call a legal strike, and it requires that a labor court consider whether workers are conducting themselves peacefully and have exhausted available mediation before ruling on the legality of a strike. The government did not recognize any legal strikes during the year, although teachers, farm workers, air traffic controllers, and other labor groups held illegal or unofficial work stoppages.

The law empowers the president and his cabinet to suspend any strike deemed “gravely prejudicial to the country’s essential activities and public services,” an authority that the government did not use during the year.

Workers in the essential services and public services sectors can address grievances by means of mediation and arbitration through the Ministry of Labor’s General Inspectorate of Labor and also directly to the labor courts. Employers may suspend or fire workers for absence without leave if authorities have not recognized a strike as legal. The law calls for binding arbitration if no agreement is reached after 30 days of negotiation. The law prohibits employer retaliation against strikers engaged in legal strikes. There were no strikes declared legal during the year.

Labor laws and regulations apply throughout the country, including in the 12 active export processing zones (EPZs) and within the maquiladoras, which operated under an EPZ-like regime, although they were not located in distinctly established areas. By year’s end the number of workers in the maquiladora sector decreased to approximately 80 thousand, due to competition from apparel producers in Asian countries.

There were no special laws or exemptions from regular labor laws in the EPZs. Due to worker mistrust of employers and union organizers, unions had minimal success in organizing workers in EPZs and in the maquiladora sector. While only three enterprises in the maquiladora sector had legally registered unions, one of those enterprises declared bankruptcy on June 10, and closed. The two remaining unionized maquilas had legally registered collective bargaining agreements. In December union organizers in another company reached an agreement with management to establish a union in the workplace. Recognition by the Ministry of Labor was pending at year’s end. Labor leaders and activists asserted that employer intimidation and pressure undermined organizing activities.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, including by children, women and increasingly minors were trafficked for the purpose of sexual exploitation (see section 5). There were reports that employers sometimes forced workers to work overtime, often without the premium pay mandated by law (see section 6.e.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law bars employment of minors under the age of 14 without written permission from parents or the Ministry of Labor, child labor was a widespread problem. The law prohibits minors from work in establishments where alcoholic beverages are served, from work in unhealthy or dangerous conditions, and from night work and overtime work (the legal workday for persons younger than 14 is 6 hours, and for persons 14 to 17 years of age, 7 hours.). Despite these protections, child laborers worked on average in excess of 45 hours per week.

The informal and agricultural sectors regularly employed children below 14 years of age, usually in small family enterprises. Economic necessity forced most families to have their children work to supplement family income, particularly in rural and indigenous communities.

Laws governing the employment of minors were not enforced effectively. The vast majority of incidents of child labor cases occurred in the informal sector. The situa-



tion was exacerbated by the weakness of the labor inspection and labor court systems, and because the law provides that parental consent alone is sufficient to permit a child to work.

The ILO's International Program on the Elimination of Child Labor (IPEC) continued to operate programs in the country to deal with commercial sexual exploitation of children, child labor in commercial agriculture, children working in garbage dumps, and child labor in quarries. An IPEC project to address child labor in fireworks production closed in August. The labor ministry estimated that approximately three thousand children were employed in the illegal and very hazardous cottage-based fireworks production industry. In its annual report, the ILO Committee of Experts requested that the government adopt necessary measures to guarantee that no person under 18 years of age would be employed in the hazardous fireworks industry.

The ILO Committee of Experts noted also with regard to worst forms of child labor that, in relation to the commercial sexual exploitation of children in the country, legislation was inadequate, cases involving sexually exploited children often were not investigated and prosecuted, and there were no effective rehabilitation programs available (see section 5).

The Child Worker Protection Unit within the Ministry of Labor is charged with enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors in the labor market.

The government devoted insufficient resources to prevention programs but Guatemala City's municipal administration managed several small programs that offered scholarships and free meals during the year to encourage families to send to school children who had formerly worked in the broccoli, coffee, gravel, and fireworks industries.

*e. Acceptable Conditions of Work.*—The law sets national minimum wages for agricultural and non-agricultural work. In December President Berger ordered a 10 percent increase in the legal minimum wage after the National Salary Committee failed to achieve consensus. The new daily minimum wage was \$5.66 (42.46 quetzales) in agriculture and \$5.82 (43.64 quetzales) in non-agricultural work. In addition to the increase in base minimum wage, the president also increased the mandatory monthly incentive bonus for salaried employees from \$14.66 (110 quetzales) to \$33.33 (250 quetzales), effectively raising the minimum wage to \$7.17 (53.8 quetzales) per day for agricultural work and \$7.33 (55 quetzales) for non-agricultural work.

The minimum wage did not provide a decent standard of living for a worker and family. The Guatemalan National Statistics Institute calculated that the minimum food budget for a family of 4 was \$202 (1,515 quetzales) per month, significantly above the \$161 (1,210 quetzales) per month that could be earned at the non-agricultural minimum wage rate. The institute's estimate of a family's total needs, including housing, clothing, utilities, and health care was \$369 (2,765 quetzales). Labor representatives noted that even where both parents worked, the minimum wage did not allow the family to meet its basic needs.

Noncompliance with minimum wage provisions in the informal sector was widespread. The Ministry of Labor conducted inspections to monitor compliance with minimum wage provisions, but the government allocated inadequate resources to enable inspectors to enforce the minimum wage law adequately, especially in the very large informal sector. Advocacy groups, focused on rural sector issues estimated that more than half of workers in rural areas who engaged in day-long employment did not receive the wages, benefits, and social security allocations required by law.

A study by the Center of National Economic Research, conducted in 2004 and again in the current year, reported that 75 percent of the workforce operated in the informal sector, and therefore outside of the basic protections, including minimum wage, afforded by the law.

The legal workweek is 48 hours with at least one paid 24-hour rest period, although in certain economic sectors, workers continued to operate under a tradition of longer work hours. Daily and weekly maximum hour limits did not apply to domestic workers. Time-and-a-half pay was required for overtime work. Although the law prohibits excessive compulsory overtime, trade union leaders and human rights groups charged that employers sometimes forced workers to work overtime without legally-mandated premium pay. Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines, and inefficiencies in the labor court system.

In March labor courts re-assumed responsibility for sanctioning employers found violating labor laws. This responsibility had been taken away from labor inspectors by a 2004 Constitutional Court decision. During the year the labor courts received 1,187 cases from the labor inspectorate, but resolved only 138.

The government sets occupational health and safety standards, which were inadequate and poorly enforced. When serious or fatal industrial accidents occurred, the authorities often failed to investigate fully or assign responsibility for negligence. Employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers was not enforced. Workers have the legal right to remove themselves from dangerous work situations without reprisal; however, few workers were willing to jeopardize their jobs by complaining about unsafe working conditions.

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## GUYANA

The Co-operative Republic of Guyana is a multiparty democracy with a population of approximately 750 thousand. The president appoints a prime minister and a cabinet. In 2001 citizens voted in generally free and fair national elections to reelect the People's Progressive Party Civic (PPP/C) and President Bharat Jagdeo. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas:

- unlawful killings by police
- police abuse of suspects
- poor prison and jail conditions
- lengthy pretrial detention
- severe inefficiencies in the judicial system
- warrantless searches of homes and vehicles
- government interference in the media
- violence against women and children
- trafficking in persons
- discrimination against indigenous people

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, the nongovernmental organization (NGO) Guyana Human Rights Association (GHRA) and the media asserted that police continued to commit unlawful killings. In most cases the police shot the victims while attempting to arrest them or while a crime was being committed. Although police seldom were prosecuted for unlawful killings, the new police commissioner brought charges against officers implicated in such abuses and instigated greater efforts to investigate and hold police officers accountable. The constitution broadly defines justifiable use of lethal force.

On January 13, police shot and killed murder suspect Simeon Hope in his house. Press accounts stated that witnesses said police ordered other occupants out of the house before firing. The Police Complaints Authority (PCA) recommended a coroner's inquest, but it had not commenced by year's end.

On July 13, police accidentally shot Eon Forrester, who was in custody at the East La Penitence police station, when a scuffle broke out between a policeman and another man in custody. Forrester died at the hospital. The director of public prosecutions (DPP) upheld a PCA recommendation to charge the policeman with manslaughter, and he was awaiting trial at year's end.

On July 16, a policeman shot and killed Dwight McKenzie and Eon Alleyn while both were on a motorcycle. According to police the two men matched the description of burglars; they took evasive action and began firing at the police. Eyewitnesses told the press that the men were evading the police but not firing, and that one officer exited the police vehicle firing rounds into the air. When the men did not stop, another officer fired four rounds directly at them. The PCA recommended a coroner's inquest, but no action had been taken by year's end.

On November 12, a policeman shot and killed Carl Abrams, who was sitting by a fence near his home. The policeman claimed that he had returned Abrams' fire, but further investigation found that only one shot was fired. The DPP upheld the PCA's recommendation to charge the policeman with murder. At year's end the policeman was in custody awaiting trial.

In 2004 an informant alleged that Minister of Home Affairs Ronald Gajraj was involved in directing an extrajudicial killing squad. In May a Presidential Commission of Inquiry cleared Gajraj of involvement in promoting, directing, or otherwise engaging in activities involving the squad. However, circumstantial evidence pointed to the contrary, and the commission's work was hindered by witnesses mysteriously dying or refusing to testify. Gajraj admitted to interactions with some members of the killing squad. Upon the release of the report, Gajraj was reinstated but subsequently resigned his position due to international pressure.

There were no developments in the allegations of wrongdoing in police killings in previous years, including the 2004 shootings of Sherman George, Curtis Lorenzo, and Kelvin Nero.

Of the two police officers charged with killing University of Guyana student Yohance Douglas in 2003, one was released due to lack of evidence. On December 16, a High Court jury found the second policeman guilty of manslaughter, but he appealed the verdict on the grounds that the judge misled the jury.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits torture, and there no reports of its use, allegations of police abuse of suspects continued. The PCA received 61 complaints of unlawful arrest and 3 of unnecessary use of violence during the year.

On November 11, police held 3 women and their 4 children for 10 hours in a filthy holding cell at a police station. The women claimed that they were not allowed to respond to the allegation of disorderly behavior made against them. A magistrate dismissed the case against them on November 16.

Various groups commended the police commissioner for his efforts to pursue and discipline officers accused of abuse. The police commissioner instituted training and worked closely with the PCA and DPP to investigate complaints of improper police behavior and punish those found culpable. However, there were numerous indications that the government did not take human rights seriously and believed that the police force's concern for human rights was affecting the force's crime-fighting ability.

In May a former female inmate at the New Opportunity Corps (NOC), a correctional facility for juvenile delinquents, filed a complaint of sexual abuse against staff members. The Guyana Police Force (GPF), Ministry of Human Services, and the Ministry of Culture, Youth, and Sport investigated; in June authorities charged three male counselors with rape. They were released on bail and awaited trial at year's end.

*Prison and Detention Center Conditions.*—Prison and jail conditions were poor, particularly in police holding cells. However, the GHRA stated that "prisons have improved immeasurably in the last decade" and met minimum international standards. The Prison Authority reported that there were 1,485 prisoners in 5 facilities, nearly half of whom were in Georgetown's Camp Street Prison, the country's largest. That prison, expanded to hold 500 inmates, held an average of 700 prisoners during the year, far below the 1 thousand it used to hold.

Conditions in the country's four smaller prisons generally were adequate. Some prisons officers received basic medical training, but there was no doctor to perform regular visits at any of the prisons. The prison system faced issues of staffing constraints and lack of resources. However, attempts were made to give all prison officers human rights training, and the senior level management of the Prison Service made serious efforts to combat cruel, inhuman, or degrading treatment in the prisons. The GHRA did not consider mistreatment of prisoners a problem in the prison system.

Although sanitary and medical conditions in police holding facilities varied, these conditions were worse than those in the prisons. Some jails were bare, overcrowded, and damp. Few had beds, washbasins, furniture, or utensils. Meals normally were inadequate; friends and relatives routinely had to bring detainees food and water. Cells rarely had sanitary facilities, and staff members sometimes escorted inmates outside the cells to use holes in the floor for toilets. Inmates generally slept on a thin pallet on the concrete floor. Although precinct jails were intended to serve only as pretrial holding areas, some suspects were detained there as long as two years, waiting for the overburdened judicial system to act on their cases.

Unlike previous years, there were no reports that prisoners died while in police custody.

Juvenile offenders aged 16 and older were placed in the adult prison population. Juvenile offenders aged 15 and younger were held in the NOC, which originally was conceived as a training and rehabilitation facility rather than a juvenile detention center. There were complaints that juvenile runaways or those out of their guard-

ians' care were placed with juveniles who had committed crimes. The NOC facility had multiple problems including staffing capacity and capabilities.

Since there were no facilities in Georgetown to house female offenders aged 16 and over, women awaiting trial were held in the same facilities as men. The Prison Authority reported that there were 69 female inmates in the women's prison located in New Amsterdam.

The government permitted independent monitoring of prison conditions, but there were no known requests to conduct such monitoring during the year.

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

*Role of the Police and Security Apparatus.*—The GPF maintains internal security. It consists of three thousand members and is headed by the commissioner of police. The minister of home affairs oversees the GPF. The Guyana Defense Force (GDF) is responsible for defending the country's territorial integrity, assisting civil authorities to maintain law and order, and contributing to economic development. The GDF consists of 2,500 troops and is headed by the chief of staff. The GDF falls under the purview of the minister of defense, whose portfolio was held by the president, and the Defense Board.

Poor training, poor equipment, and acute budgetary constraints severely limited the effectiveness of the GPF. Public confidence and cooperation with the police remained extremely low. There were reports of corruption in the force, especially in the lower ranks. Since taking office in 2004, the commissioner of police made it a priority to address corruption and lack of police accountability. Most cases involving charges against police officers were heard by lower magistrate's courts, where other specially trained police officers served as the prosecutors. The Bar Association questioned officers' commitment to prosecute their own colleagues and recommended that the DPP should handle prosecution of serious cases.

The chairman of the PCA, a former chancellor of the judiciary, made serious efforts to turn the PCA into a credible working body. When a complaint is received and investigated, a report and relevant statements are sent to the chairman and a two-person panel for review. By law the police commissioner must comply with the PCA's recommendation on complaints. In August, frustrated with hundreds of cases still awaiting police reports, the chairman wrote to the commissioner, and within days the commissioner provided more than 82 files.

The PCA received 269 written complaints during the year, of which 11 involved police killings. Investigation into these killings led to three charges against police officers and eight recommendations for inquests. The remaining 258 complaints were mostly for police neglecting their duties or misbehaving in public places, unlawful arrest, wrongful seizure of firearms or motor vehicles, corrupt transactions, and unnecessary use of force. At year's end 101 reports remained outstanding, and the other 157 complaints had been investigated and dealt with by the police force or rejected by the PCA.

The GPF included a basic human rights course in its recruit-training program and held a week-long human rights training seminar in September, sponsored by the GHRA and the UN Development Program.

*Arrest and Detention.*—An arrest requires a warrant issued by a court official, unless an officer witnesses a crime, or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 72 hours be brought before a court to be charged, and this was generally observed in practice. Bail was generally available, except in capital offenses and narcotics trafficking cases. Although narcotics trafficking was not a bailable offense, some magistrates granted bail to drug defendants.

Although the law provides criminal detainees prompt access to a lawyer of their choice, as well as access to family members, in practice these rights were not fully respected. Police routinely required permission from the senior investigating officer, who was seldom on the premises, before permitting counsel access to a client. There were reports that senior officers refused to grant prompt access to prisoners.

The government did not detain persons on political grounds, although supporters of Mark Benschop, a talk show host arrested on charges of treason in 2002, considered him to be a political detainee. In 2004 his trial concluded with a hung jury that voted 11 to 1 for acquittal. Although the judge's summation to the jury indicated that there was no evidence that the accused had intent to overthrow the government, the judge scheduled Benschop for retrial. In December he sued the attorney general over his continued incarceration without bail and the High Court's delay in hearing his case a second time; he remained in jail at year's end.

Lengthy pretrial detention, due primarily to judicial inefficiency, staff shortages, and lengthy legal procedures remained a problem, despite the chief justice's efforts to have the courts deal more quickly with inmates on remand. Pretrial detainees made up approximately one-third of the prison population, and the average length of pretrial detention was 18 to 20 months.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary and the government generally respected this provision in practice, some law enforcement officials, prominent lawyers, and others accused the government of occasional judicial intervention. The general perception was that the judiciary was influenced by the executive, and that corruption existed at the magistrate level.

Delays and inefficiencies in the judicial process undermined due process. Delays in judicial proceeding were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional allegations of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial. The delays resulted in a backlog of more than 10 thousand cases, some dating back 10 years.

The court system is composed of magistrate's courts, the High Court, and the Court of Appeals. There is also the right of final appeal to the new Caribbean Court of Justice. The magistrate's courts deal with both criminal and civil matters. Specially trained police officers serve as prosecutors in lower magistrate's courts. The DPP is statutorily independent, may file legal charges against offenders, and handles all criminal cases.

The Judicial Services Commission (JSC) has the authority to appoint judges, determine tenure, and appoint the DPP and his deputy. The president, on the advice of the JSC, may temporarily appoint judges to sit in magistrate's courts and on the High Court.

*Trial Procedures.*—Defendants have public trials, and appeals may be made to higher courts. Defendants are presumed innocent until found guilty. Cases in magistrate's courts are tried without jury; more serious cases are tried by jury in the High Court. Appeals of some murder cases may continue for several years. Trial postponements were granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts had a limited effect.

Although the law recognizes the right to legal counsel, in practice, with the exception of cases involving capital crimes, it was limited to those who could afford to pay. There is no public defender system; however, a defendant in a murder case received a court-appointed attorney if the case reached the High Court.

The Georgetown Legal Aid Clinic, with government and private support, provided advice to persons who could not afford a lawyer, particularly victims of domestic violence and violence against women.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—While the law prohibits such actions, authorities sometimes infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were reports that police officers searched homes without warrants, particularly in the village of Buxton, a criminal enclave, and in neighborhoods where narcotics trafficking was suspected.

In October a joint GPF/GDF operation in Buxton searched 350 homes and arrested 112 persons, including 3 wanted men. Police released all but the wanted men, and the sweeps did not turn up arms or ammunition. The GHRA condemned the operation, asserting that law-abiding citizens of Buxton were being unduly harassed. The GHRA also noted that the operation took place just weeks after President Jagdeo stated that the police "are more concerned with human rights groups than with victims". The police commissioner denied that the operation was designed to appease Jagdeo's frustration.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, there were some exceptions.

The independent media were active and expressed a wide variety of views without restriction. International media were allowed to operate freely. The government's daily newspaper, the *Guyana Chronicle*, which typically displayed a progovernment bias, covered a broad spectrum of political and nongovernmental groups.

There were reports of prior restraint of media reporting. Guyflag, an insurance company accused of a major insurance fraud, filed two legal actions against the

*Stabroek News* after the newspaper published an analysis of the company's annual report. A court granted the firm an injunction restraining further publication of certain parts of that article "or any similar words." The matter was still before the court at year's end.

Government limits on licensing and expansion constrained the broadcast media. The government owned and operated the radio stations, which are the only media that reach the entire country. Private interests and the political opposition continued to criticize the government for its failure to approve long-standing requests for private radio frequency authorizations. The government stated that no new radio or television licenses would be granted, nor any extensions of broadcast service approved, pending passage of a new broadcast law, a draft of which had not yet been tabled in parliament. Nonetheless, the national television station continued to expand its service. Twenty-one independent television stations also operated throughout the country.

Equitable access to the state media remained a contentious issue between the government and the major opposition parties and grew more heated prior to an election year.

On January 22, in the wake of devastating floods along most of the coastal area, the prime minister suspended the operating license of CNS Channel 6 for one month. The suspension responded to programs hosted by the station's proprietor, the leader of an opposition political party, which the government claimed misrepresented the situation by portraying the government as insensitive to the suffering and losses caused by the flooding. Authorities took the station off the air, and police seized broadcasting equipment. The proprietor's attempts to continue broadcasting in defiance of the suspension were repeatedly blocked due to cuts in electricity to his studio. The proprietor filed a motion in the High Court to lift the suspension, but when the case went before the court, it resulted in a deadlock. The station returned to the air after the 1-month suspension.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

While the government recognizes religious groups of all faiths, churches were required to register with the government to be formally recognized. Foreign religious groups seeking to establish operations require permission from the Ministry of Home Affairs before commencing their activities.

According to the Amerindian Act, religious groups seeking access to Amerindian villages are required to obtain special permission from the minister of Amerindian affairs. The minister reviews the scope of activities submitted by the religious body and grants approval on a case-by-case basis.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was a very small Jewish community.

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

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

Travel to Amerindian areas required government permission, the result of a law dating from 1951. However, in practice most persons traveled throughout these areas without a permit.

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system to protect refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum.

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

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There is a multiparty political system based on proportional representation, and the party that wins the most votes for parliament wins the presidency. The president appoints a cabinet and prime minister who, with the president, exercise executive power.

*Elections and Political Participation.*—In 2001 citizens voted in a generally free and fair election to keep the PPP/C in office, defeating the Peoples National Congress Reform (PNC/R), which is the main opposition party. Incumbent Bharrat Jagdeo remained the PPP/C's presidential candidate and was re-elected to a 5-year term. More than 165 international observers deemed the elections free and fair, according to international standards.

In 2003 the president and the leader of the opposition established a bipartisan task force to reform the local government system, which completed its work in 2004 and submitted its report to both leaders. The report left two issues outstanding—fiscal decentralization and the structure of the electoral system for local elections. The task force has not reconvened, and the report was not implemented due to a stalemate between the two major political parties. Local government elections, last held in 1994, were delayed pending completion of the reform and in order not to conflict with national elections scheduled for mid-2006.

The constitution contains language that allows the Guyana Elections Commission (GECOM) to determine what forms of identification to require for a voter to prove his identity. In past elections losing parties claimed that rivals had registered non-existent voters by questionable means, such as oaths of identity. In October GECOM opened a continuous registration process for the 2006 elections. To control the registration process more tightly (so the political parties are satisfied the voter's list is not padded), GECOM included a new requirement that new registrants present a birth certificate or passport as proof of age and citizenship. There was concern that this new requirement might disenfranchise persons who did not have such documents.

While supporters of the two major parties (the PPP/C and the PNC/R) were drawn largely from the Indo-Guyanese and Afro-Guyanese communities respectively, political party leadership was more diverse. The cabinet was also ethnically diverse. Four of 19 cabinet ministers were Afro-Guyanese, including the prime minister and the head of the presidential secretariat. There were two cabinet ministers of Portuguese descent and one Amerindian. The cabinet also included four women.

There were 20 women and 4 Amerindians in the 65-seat parliament. The constitution requires that one-third of each party's list of parliamentary candidates be female, but a party can meet that requirement and then not select any women for parliamentary seats. Nonetheless, almost one-third of parliamentarians were female.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption in the government, including law enforcement and the judicial system. Low wage public servants were easy targets for bribery.

The law does not provide for public access to government information. Government officials were reluctant to provide public information without approval from senior levels of the administration.

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

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

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

While the constitution provides fundamental rights for all persons regardless of race, gender, religion, or national origin, the government did not always enforce these provisions.

*Women.*—Violence against women, including domestic violence, was widespread and crossed racial and socio-economic lines. The law prohibits domestic violence, gives women the right to seek prompt protection, and allows victims to seek protection, occupation, or tenancy orders from a magistrate. Penalties for violation of protection orders include fines up to \$54 (G\$10 thousand) and 12 months' imprisonment; however, this legislation frequently was not enforced.

According to the NGO Help and Shelter, the government used laws against domestic violence with some measure of success; the problems lay with the failure of those responsible for implementation. Help and Shelter said that all magistrates and magistrate's court staff needed to be more sensitive to the problem of domestic violence and to their roles in ensuring implementation of the law. In addition not all police officers fully understood provisions of the law.

Between January and September, Help and Shelter handled 312 abuse cases, including child, spousal, nonspousal, and other domestic abuse; 215 of the cases involved spousal abuse directed against women.

GHRA noted that women lacked protection against sexual and physical exploitation and abuse and said that institutional resistance in all sectors, including law enforcement, the judiciary, and the legal profession seriously contributed to the increase in violence against women.

NGOs trained police officers, teachers, nurses, agricultural workers, religious groups, and health clinics to sensitize them to domestic violence. Domestic violence training was part of the curriculum of the Police Training College. Help and Shelter operated a hot line to counsel victims. There is a Task Force on Violence against Women whose membership included NGOs, representatives from law enforcement, the health community, and youth. The task force conducted research and analysis on ways to better combat violence against women.

Although rape, including spousal rape, is illegal, it was a serious but infrequently reported or prosecuted problem. While increasing numbers of victims reported these crimes to the authorities, victims were socially stigmatized. A judge has discretion to issue a sentence of any length in a rape conviction, depending upon the circumstances and severity of the act committed. The established trend appeared to be a sentence of 5 to 10 years in prison.

By the end of July, official records from all magisterial districts recorded 50 rape charges. However, the chief probation and family welfare officer stated that a realistic figure likely was double the official one because victims were reluctant to file charges or report cases. Statistics showed that in more than 70 percent of sexual assault cases, the victim was under the age of 18. According to a study released by GHRA, there were only 9 convictions from 647 rape reports for the period 2000–04. The study described “unreconstructed chauvinism” of the country's legal culture as one of the biggest obstacles in delivering justice for victims.

Prostitution is illegal but widespread, and it received greater public attention due to the high incidence of HIV/AIDS among prostitutes and increased attention to trafficking in persons.

Although the law prohibits discrimination based on gender, there was no legal protection against sexual harassment in the workplace. Officials of the Women's Leadership Institute (WLI), a collaborative effort between the government and the UN Development Program, asserted that sexual harassment was a significant problem. WLI reported that while the problem is widespread, victims were reluctant to make official reports, due to fear of the associated stigma and a lack of confidence in the legal system to deliver justice promptly.

Although women constituted a significant proportion of the workforce, there were credible reports that they were not equally treated and faced disadvantages in promotion. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services.

The law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had not been employed. The courts may overturn a husband's will if it does not provide for his wife, as long as she was dependent on him financially.

*Children.*—The government generally was committed to children's rights and welfare, and in August the cabinet began its review of a draft Family Bill, under preparation since 1995. The bill was divided into five separate pieces of legislation: The Protection of the Children Bill, the Status of the Children Bill, Adoption of the Children Bill, the Child Care and Development Services Bill and the Custody, Access, Guardianship and Maintenance Bill.

Public education was available to age 20. Education was compulsory until age 16, universal, and free through secondary school. Children often did not attend school because their families needed them to contribute to the household by working or providing child care to siblings or younger relatives. According to 2004 statistics, primary school attendance was 87 percent, although only 50 percent of the children completed secondary education. Schools suffered from high attrition rates of trained and experienced teachers, gross understaffing with a high proportion of untrained and underqualified teachers, and very poor infrastructure. The severe deterioration of the public education system limited children's future prospects.



In February the Ministry of Labor, Human Services, and Social Security, the UN Children's Fund (UNICEF), and the NGO Red Thread released a report entitled "*Voices of Children: Experiences with Violence*," which studied the impact of violence on the lives of children. The study found that children are most at risk in their own environments and with people they consider friends or family rather than from criminals or strangers. Some violence endured by children could be traced to common practices and beliefs within the country. The report noted cases of "serious sexual violence perpetrated by older children against younger children in institutions. In each case the perpetrator remained in the same institution even when the abuse had been reported to caregivers."

The age of criminal responsibility is 10, although children usually were not prosecuted as adults, and offenders were sent to the NOC (see section 1.c.).

In October a new law raised the age of sexual consent from 13 to 16. Minister of Labor Dale Bisnauth told parliament that this law did not deal with sexual offenses, but merely addressed the issue of statutory rape. Under the law anyone who has carnal knowledge of a girl under the age of 16 can be found guilty of a felony and imprisoned for life.

There was continued concern over the effects of domestic violence on children. It was unclear how many deaths from child abuse took place; law enforcement officials believed that the vast majority of criminal child abuse cases were underreported. Reports of physical and sexual abuse of children were common. In December the Ministry of Labor, Human Services, and Social Security established a database called the Child Protection Monitoring System to track all reported cases of violence, abuse and neglect of children. The intent was to have all NGOs and law enforcement agencies able to feed information into a comprehensive database. The ministry received assistance from UNICEF.

There were reports of child prostitution (see section 5, Trafficking).

*Trafficking in Persons.*—The 2004 Combating of Trafficking in Persons Act prohibits all forms of trafficking in persons, but there were reports that persons were trafficked to, from, or within the country. Penalties include three years' to life imprisonment, forfeiture of property, and full restitution to the victims.

There was a National Plan of Action to combat human trafficking, and the deputy commissioner of police monitored enforcement.

The government continued to make progress in its efforts to combat trafficking in persons. In October authorities charged a businesswoman from Port Kaituma with trafficking in persons for allegedly forcing two 15-year-old girls to work as prostitutes. The acting magistrate denied the woman bail and remanded her to prison until her next court appearance. Also in October authorities charged a businesswoman and two employees with trafficking two teenage girls.

In December 2004 the GPF cooperated with the Suriname Police Corps on a joint investigation that led to the arrest of a Surinamese deputy district commissioner for trafficking four Guyanese women, aged 14 to 27, from Guyana to Suriname and forcing them to work as prostitutes in his brothel.

The country was a source and destination for trafficked women and children, although most trafficking in persons occurred internally. Trafficking reportedly took place in the interior, where there was little government oversight and law enforcement was lacking. Most trafficking originated in impoverished Amerindian communities, although some victims came from the larger coastal cities. Some women trafficked into the country came from the northern regions of neighboring Brazil. Some were trafficked specifically to work in the timber industry. A smaller number of women were trafficked into Suriname's sex trade. The majority of trafficked women and children were lured to mining camps deep in the interior beyond the reach of law enforcement. Reports indicated that trafficking victims were promised employment as highly paid domestic helpers, cooks, restaurant servers, and nude dancers. The victims were provided with barracks-style housing with cramped quarters and sometimes were locked inside. They were restrained through debt-bondage, intimidation, and physical abuse. Most victims were exposed to the same health risks as prostitutes and other victims of sexual exploitation, including sexually transmitted diseases such as HIV/AIDS.

Most traffickers were believed to be individual businessmen or small groups of miners. There was no evidence that government officials or institutions participated in or condoned human trafficking. Although police corruption continued, there were no reports of any cases of police corruption linked to human trafficking.

The government did not attempt to punish or prosecute victims. Victims identified by the government were removed from the traffickers' custody and provided passage back to their homes. There were no reports of societal discrimination against trafficking victims.

The government also worked closely with and provided support for the NGOs Help and Shelter and Red Thread that dealt with trafficking. The government provided \$25 thousand (G\$5 million) to renovate Help and Shelter's physical facility to provide shelter to trafficking victims. The government worked to develop a formal procedure to provide short- and long-term care to victims, including medical attention, housing, and repatriation allowances to victims, prior to their return home.

Beginning in June the government held monthly educational seminars attended by more than 200 people throughout the country. The seminars focused on educating community members about human trafficking and teaching attendees how to report human trafficking activities to the appropriate authorities.

*Persons with Disabilities.*—The constitution says “the state shall, for the purpose of promoting equality, take legislative and other measures designed to protect disadvantaged persons and persons with disabilities,” but there is no implementing legislation allowing such a person to fight a discriminatory act. There is no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities made it very difficult for persons with disabilities to be employed outside their homes. The National Commission on Disabilities (NCD) drafted legislation to protect people with disabilities, which underwent public consultations throughout the country. From August to October, the NCD conducted a survey of 1,500 persons with disabilities across four regions. The survey generated information about the nature of disabilities in order to inform policy, intervention, and plan services. A few independent organizations dealing with specific disabilities existed, such as a society for the visually impaired. The Open Door Center offered assistance and training to persons with disabilities and functioned throughout the year.

*National/Racial/Ethnic Minorities.*—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin continued to influence society and political life. Racial grouping of social and political organizations polarized society along ethnic lines, and discrimination and exclusion continued to occur. A few politicians and media personalities engaged in rhetorical and propaganda attacks that fueled racial tensions.

*Indigenous People.*—According to the 2002 census, the Amerindian population constituted 9 percent of the population. There were 9 tribal groups, and 90 percent of Amerindian communities were in the remote interior. Their standard of living was lower than that of most citizens, and they had limited ability to participate in decisions affecting their lands, cultures, traditions, and allocation of natural resources. Access to education and health care in Amerindian communities was limited, but the government worked to improve these services. All Amerindian communities had primary schools, and there were eight secondary schools in the hinterland regions. The secondary schools had dormitories that housed approximately 800 students at the government's expense. The government also offered scholarships for 300 Amerindian children to attend secondary school in Georgetown. The government established programs to train health workers, and health huts were established in most communities.

The Amerindian Act regulates Amerindian life. Under the act the government may determine who is an Amerindian and what constitutes an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian may accept formal employment, but these provisions were not enforced.

For the Amerindian population, land rights were a major issue. Amerindians complained that the government allocated land (to mining and logging interests as well as for environmentally protected reserves) without proper consultations with them. The Amerindian communities often viewed these allocations as illegitimate seizure of “their” lands and complained that consultations on development in the interior did not provide adequate time for feedback.

The government accepted 46 of the 74 recommendations presented during national consultations on a new Amerindian bill and tabled it in parliament in August. In October parliament sent the bill to a select committee. Many Amerindian groups, NGOs, and the parliamentary opposition parties opposed the new bill. The three largest NGOs—the Amerindian People's Association, the Amerindian Action Movement of Guyana, and the Guyana Organization of Indigenous People—advocated complete withdrawal of the bill from consideration. The main issues of contention were inadequacy of rights to land and resources, use of the term “Amerindian” rather than “Indigenous”, the number of powers conferred upon the minister of Amerindian affairs, and the lack of autonomy given to community governing institutions.

*Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions, and workers exercised this right in practice. However, the constitution also specifically bars GPF members from unionizing or associating with any established union. Approximately 32 percent of the work force was unionized.

There is no law prohibiting antiunion discrimination by employers. Although not always in harmony with specific unions, the country's socialist history continued to ensure that the government maintained a generally pro-union stance.

*b. The Right to Organize and Bargain Collectively.*—Public and private sector employees possessed and utilized the right to organize and to bargain collectively. The Ministry of Labor certified all collective bargaining agreements, and there were no reports that it refused to do so. Individual unions directly negotiate collective bargaining status. The chief labor officer and the staff of the Ministry of Labor provided consultation, enforcement, and conciliation services.

The law provides workers with the right to strike, and workers exercised this right in practice. Strikes may be declared illegal if the union leadership did not approve them or if they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they are required to engage in compulsory arbitration to bring an end to a strike. There is no law prohibiting retaliation against strikers, but this principle always was included in the terms of resumption after a strike. The law defines and places limits on the retaliatory actions employers may take against strikers.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law sets minimum age requirements for employment of children, child labor in the informal sector was a problem, and it was common to see very young children engaged in street trading in the capital. Legally, no person under age 14 may be employed in any industry, and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family are employed.

According to the 2001 UNICEF-sponsored Multiple Indicator Cluster Survey, 27 percent of children between the ages of 5 and 14 were economically active. The majority of children started working between the ages of 10 and 14. Approximately 45 percent of children worked in the interior regions. The report indicated that most children were not involved in the worst forms of child labor, and estimated that 3 percent of the children were involved in commercial sexual activity. Teenage prostitution was a problem (see section 5).

In July the Ministry of Labor, Human Services, and Social Security and the International Labor Organization (ILO) held a 1-day seminar on the prevention and eradication of child labor. The ILO initiated activities as part of its International Program for Elimination of Child Labor.

While the Ministry of Labor recognized that child labor existed in the informal sector, it did not employ sufficient inspectors to enforce existing laws effectively.

*e. Acceptable Conditions of Work.*—A civil service arbitration ruling in 1999 established a minimum public sector wage, which has since been increased periodically by unilateral government action to \$109 (G\$22,099) per month. New minimum wages for certain categories of private sector workers took effect on September 1, starting with a minimum of \$16 (G\$3,300) per week. Affected occupations include retail cashiers and clerks, printers, drivers, and conductors. Although enforcement mechanisms exist, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often were paid less than what was required legally in the service sector. Laborers and untrained teachers at public schools also were paid less than the minimum wage. The legal minimum wage did not provide a decent standard of living for a worker and family.

The law sets hours of employment, which vary by industry and sector. In general work in excess of a 44-hour workweek required an overtime payment rate. The law does not require a minimum weekly rest period but does state that a person cannot be compelled to work overtime.

The law also establishes workplace safety and health standards. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. As with its other responsibilities, inadequate resources prevented the ministry from

effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.

## HAITI

Haiti is a republic with a constitution that calls for an elected president and a bicameral legislature. Its population is approximately 8 million. After then President Jean Bertrand Aristide resigned and departed the country in February 2004, Boniface Alexandre, chief justice of the Supreme Court, assumed office as interim president in accordance with the constitution. In March 2004 Gerard Latortue was installed as prime minister of the Interim Government of Haiti (IGOH) upon recommendation from a Council of Eminent Persons to President Alexandre. The IGOH's primary mission was to act as a government of unity following Aristide's departure and to create an environment favorable for presidential and parliamentary elections, which were eventually scheduled for February 2006. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority.

In April 2004 the UN Security Council authorized 6,700 troops and 1,622 civilian police for the UN Stabilization Mission in Haiti (MINUSTAH). MINUSTAH security forces faced increased security challenges throughout the year, and in June the Security Council passed a resolution increasing the number of military troops and civilian police. MINUSTAH concentrated on providing security in advance of the scheduled elections.

The government's human rights record remained poor. Systematic state-orchestrated abuses stopped under the IGOH, but retribution killings and politically motivated violence continued throughout the country. Various actors perpetrated numerous human rights abuses during the year, and the following human rights problems were reported:

- arbitrary killings by the Haitian National Police (HNP)
- disappearances committed by the HNP
- overcrowding and poor sanitation in prisons
- prolonged pretrial detention and legal impunity
- use of excessive—and sometimes deadly—force in making arrests or controlling demonstrations, often with impunity
- self-censorship practiced by most journalists
- widespread corruption in all branches of government
- violence and societal discrimination against women
- child abuse
- internal trafficking of children and child domestic labor

The IGOH made some progress in improving the HNP, as well as in key areas of judicial reform, during the latter portion of the year. Despite delays and poor management by the electoral authorities, more than three million citizens registered and were prepared to choose among 35 presidential candidates and to fill 129 parliamentary seats in the 2006 elections.

There were credible reports of arbitrary killings by some members of the disbanded armed forces (FAd'H) who helped force President Aristide's resignation, by partisans of Aristide's political party Fanmi Lavalas (FL), and by street gangs who were suspected of being paid and armed by supporters of former President Aristide.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Arbitrary and other unlawful deprivation of life perpetrated by state agents and others continued throughout the year. Members of the HNP continued to commit arbitrary and unlawful killings. With rare exceptions, there was no followup or investigation into these killings. In addition members of gangs and other illegally armed groups arbitrarily killed citizens (see section 1.g.).

On January 4, an HNP operation in the Port-au-Prince slum of Cite de Dieu resulted in the deaths of seven persons, including 16-year-old Angela Amazan.

A MINUSTAH patrol arrested Jimmy Charles on January 5 in the Fort National section of Port-au-Prince. The patrol turned Charles over to the police at the Anti-

Gang Police Station. On January 12, he appeared before a judge, who released him from custody. He was found dead on January 13; the cause of death, while unknown, was suspicious.

On January 14, an HNP officer shot and killed journalist Abdias Jean while conducting an operation against gangs in Cite de Dieu (see section 2.a.).

On February 12, HNP officers shot and killed 4-year-old Milderly Valbrun in crossfire during a police operation against members of the former military.

On April 27, HNP officers shot and killed four persons during a violent pro-Lavalas demonstration near UN headquarters (see section 2.b.).

On August 20, HNP officers raided a soccer match in the Martissant slum of the capital in an operation to root out gang members. Police shot and killed six young men: Reginald Michel, Nesdou Fevry, Denis Jean Marie, Gregory Odice, Frank Herne, and Alcidas Erinel. Civilian police informants (*attachés*) identified gang members to the police and hacked with machetes those gang members who tried to flee the scene, injuring an estimated 30 others. By October an HNP investigation resulted in the arrest of 15 police officers, including 2 top commanders, for their role in the operation. On November 7, the director general of the judicial police submitted a 900-page investigative report that concluded that actions taken by the commanders were criminally negligent. At year's end those arrested remained in prison in preventive detention; no determination had been made whether to file formal charges against them.

Throughout the year various international bodies, including the Inter-American Commission on Human Rights (IACHR) and the International Crisis Group, called on the government to establish an independent commission to investigate human rights abuses at the hands of the HNP and to better equip the judicial system to prosecute such cases.

There were deaths in prison during the year (see section 1.c.).

There were no developments and none were expected in the killings reported in 2004.

The IGOH's investigations into the high-profile killings of journalists Jean Dominique in 2000 and Brignol Lindor in 2001 continued at year's end (see section 2.a.).

*b. Disappearance.*—There were credible reports of disappearances after arrests by the HNP during the year.

On January 29, an HNP patrol arrested Wilbert Jeanty, Jean Casimir Pierre, Jean Louis, Saurel Marcellus, and Thomas Fils Aime after they left a construction supply store near the airport. None of the five young men were seen since the arrest.

There were also reports of disappearances stemming from the internal conflict (see section 1.g.).

There were widespread kidnappings by armed criminal elements of citizens from all social strata throughout the year. While most were resolved through the payment of ransom, some victims were tortured and killed while in their kidnappers' custody.

On March 31, kidnappers abducted cardiologist Dr. Michel Theard from his medical offices in downtown Port-au-Prince.

Community Radio station employee Lorency Cavalier was kidnapped in May and held for 11 days by her captors. She was reportedly raped and mistreated while in custody and subsequently committed suicide on July 1.

There were no developments in the disappearance cases reported in 2004, including Wisly Francique and Jasmy Emmanuel.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such actions, members of the security forces continued to violate these prohibitions. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and rarely were punished for such acts. Members of the HNP also used excessive force, such as shooting and using teargas, to suppress demonstrations (see section 2.b.).

On May 17, men dressed in black and aboard a Nissan Patrol shot and killed a young man whose body was later found, with his head covered with a bag, in the Pacot neighborhood of Port-au-Prince.

The Carrefour police station (also called Omega) was known as a center of torture and beatings of detainees. On May 6, a team from the National Network of Defenders of Human Rights (RNDDH) visited the station and spoke with 30 detainees, who denounced the mistreatment they had received. The delegation observed scars on some detainees, apparently from beatings they received while being arrested. Nikenson Jean Baptiste, a prisoner whom police arrested on April 26, could not remain standing while the delegation was present. Ralphe Ramvil, arrested on May

2, had been beaten on the testicles and had difficulties urinating. Some of the remaining detainees complained of hearing problems and earaches, suggesting that police tortured them by boxing their ears (*kalot marassa* in Creole).

Judie C. Roy, who repeatedly was tortured in various prisons during 2003 and ultimately incarcerated at the Petionville police station for "plotting against the security of the state," escaped from prison following President Aristide's departure and was not rearrested. There were no efforts made to rearrest Roy, who was the only female presidential candidate in the scheduled elections.

There were no developments in the 2003 torture investigations of Joseline Desroses or Jonathan Louime.

*Prison and Detention Center Conditions.*—Prison conditions worsened during the year. In 2004 many police stations and prisons around the country were damaged or destroyed, and by year's end, only 17 of 21 prisons were rehabilitated and rendered functional. An already burdened prison system was stressed further with insufficient facilities to hold prisoners, especially as new arrests mounted during the year. Conditions in these facilities deteriorated and, due to lack of available space, minors and adults often were held in the same cell. The most severe overcrowding was in Port-au-Prince, where the National Penitentiary, built to hold a maximum of 800 prisoners, held approximately 1,800 inmates at year's end.

Police holding cells are located within principal and sub-police stations and hold individuals being questioned by the police as well as those who have been arrested by the police. Each police station contains an investigative unit responsible for preparing police reports and, when required, accompanying those in custody to a courthouse within 48 hours of the individual's arrest. Police routinely violated the 48-hour rule.

Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. The prison population numbered 3,670 as of November. Approximately 89 percent of prisoners still awaited a judicial determination on their cases; only 417 had been sentenced. The situation was particularly grim at the National Penitentiary, where out of 1,833 prisoners, 73 were sentenced, about 4 percent of the population. The prison population did not reflect the large number of persons who were held in police stations around the country in prolonged preventive detention for longer than the constitutionally mandated 48-hour time period. Due to poor record keeping at the police stations, it was difficult to estimate the number of people held in preventive detention.

The RNDDH actively monitored prison conditions in cooperation with the Department of Prison Administration (DAP), which offered a prisoners' rights awareness campaign. Both RNDDH's and DAP's programs continued during the year.

The DAP conducted objective testing of prison physicians and nurses to exclude those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication.

On February 19, armed men attacked the National Penitentiary in downtown Port-au-Prince, resulting in the escape of 481 inmates. No injuries or deaths were reported among prisoners. One prison guard was attacked and injured on his way to the prison and an off-duty prison guard, Omeus Jean Marie Guerrier, was shot and killed in front of the prison as he drew his weapon while attempting to stop the attack. Two months earlier (in December 2004) the HNP used excessive force to quell a riot at the National Penitentiary; 7 prisoners were killed and 17 injured. The two incidents underscored the extent of the overcrowding problem at the penitentiary.

Space permitting, male and female prisoners were held separately. Juvenile detainees were not held separately from adults. After a November visit to study the situation of children and adolescents in the country, a joint delegation from the UN Children's Fund (UNICEF) and the IACHR criticized the "prolonged periods of detention without charges being brought against them and virtually without judicial controls, including the imprisonment of 10-year-old children, in flagrant violation of the law."

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical

care, food, and legal aid. The director general of the HNP and the DAP cooperated with the ICRC.

*d. Arbitrary Arrest or Detention.*—While the law prohibits arbitrary arrest and detention, security forces continued to employ both practices. The constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority. Former FAd'H members and former *chefs de section* sometimes executed arrest warrants in under-policed rural areas.

*Role of the Police and Security Apparatus.*—The HNP has the sole responsibility for law enforcement and maintenance of order in the country. The HNP is an officially autonomous civilian institution, under a director general who controls the force while the minister of justice and the secretary of state for public security under the ministry provide oversight.

After President Aristide's departure, the new leadership of the HNP took steps to address corruption by firing 200 corrupt, inexperienced officers and inducting a new class of recruits who were cleared by local human rights organizations, assisted by an international one. A new director general, installed in July, purged the upper ranks of the internal affairs unit of corrupt officers and appointed a new professional inspector in charge of investigating accusations of police corruption and human rights abuses. Under the new director general's leadership, the HNP conducted swift investigations of human rights cases, arrested suspected officers, and shuffled leadership to remove tainted supervisors from the field. Nevertheless, efforts to reform the HNP remained incomplete, and some HNP officers were still implicated in corruption, kidnapping, and narcotics trafficking. Allegations of human rights abuses by the HNP, although diminished, continued throughout the year (see section 1.a.).

The UN-established civilian police (CIVPOL) element of MINUSTAH supplemented the police and improved the HNP's capacity to maintain order.

*Arrest and Detention.*—Police often apprehended persons without warrants or on warrants not issued by a duly authorized official. The authorities frequently detained individuals on unspecified charges or pending investigation. Several former members and supporters of the Lavalas government who were suspected of human rights abuses, fomenting violence, or other crimes were arrested without proper warrants due to high levels of corruption in the judiciary. Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, and some detainees were held for extended periods in pretrial detention, often without being informed of charges against them. Detainees generally were allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the government did not provide free counsel. Bail was available at the discretion of the investigative judge. Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

Since so many persons were in pretrial detention and had yet to be charged, a number of them could be characterized as political detainees.

On July 21, police with a warrant arrested Father Gerard Jean-Juste, a well-known Catholic priest and pro-Aristide activist. The police originally took the priest into protective custody after he nearly caused a riot when he attempted to attend the funeral of journalist Jacques Roche. The police later decided to question him about possible involvement in Roche's death. He appeared before a judge on July 22 and was remanded to the National Penitentiary while a judge investigated his case. In August Father Jean-Juste was transferred to a prison annex where he could be monitored medically. Father Jean-Juste's case proceeded within the time limits of the law, and on October 19, a judge formally charged him with orchestrating the kidnapping and killing of Jacques Roche. Doctors diagnosed Father Jean-Juste with leukemia in late December. The investigative judge completed his investigation of the case but had not released his report due to a judicial strike. Due to Father Jean-Juste's declining health, however, the IGOH was exploring the possibility of releasing him for medical treatment abroad at year's end.

Annette Auguste "So Anne", a self-proclaimed pro-Lavalas community organizer, arrested in May 2004 and charged with being the architect of the 2003 attack on state university students, remained in prison at year's end.

Prolonged pretrial detention remained a serious problem; 96 percent of detainees and prisoners at the National Penitentiary had not been formally sentenced by a judge.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, in practice the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference from the executive branch. Then Minister of Justice Bernard Gousse made minimal efforts at reforming the justice system, such as relieving corrupt judges of their caseloads. In May the IGOH replaced Gousse with Justice Minister Henri Dorleans, who enacted tough judicial reform measures, particularly on pretrial detention. The new minister introduced system-wide changes aimed at strengthening the system's capacity. Although some immediate improvements were made, such as special judicial sessions to adjudicate the cases of detainees held in prolonged pretrial detention, the system remained weak and had limited capacity at year's end.

Systemic problems—including underfunding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors—created a huge backlog of criminal cases, with many detainees waiting months or in pretrial detention for a court date (see section 1.d.). For persons acquitted or who had charges dismissed, there was no legal redress for their prolonged pretrial detention.

In December the IGOH issued a presidential decree involuntarily retiring five judges from the Supreme Court. The action resulted from the interim government's outrage over two Supreme Court decisions affirming Haitian-American Dumas Simeus' right to appear on the presidential ballot (see section 3).

In most regions judges lacked the basic resources and professional competence. The qualifying year-long course at the magistrates' school requires no previous legal training. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (see section 5). The UN Development Program (UNDP), supported by the government, provided additional training for many segments of the judicial system, including new judges and attorneys.

On April 25, former Port-au-Prince police chief Jackson Joanis appealed his conviction for his role in the murder of Father Jean-Marie Vincent in 1994. On June 10, the appeals court overturned Joanis' conviction for lack of sufficient evidence against him and set him free.

Former paramilitary leader Louis-Jodel Chamblain was released from prison on August 11. Chamblain appealed his 2000 conviction in absentia for the 1994 Raboteau massacre, and the appeals court overturned it in late May, citing irregularities within the original trial. Although he remained in prison to face additional charges related to a 1993 incident in Cite Soleil, on June 7, his lawyers filed a writ of habeas corpus asserting that he was being held without due process, and the court ordered his release on July 26.

The release of Chamblain and Joanis, despite their alleged roles in other human rights violations, called into question the IGOH's commitment to respect the rule of law and to strengthen democratic institutions in the country.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality.

*Trial Procedures.*—The judicial apparatus follows a civil law system based on the Napoleonic Code. Although the constitution provides for the right to a fair public trial, this right was abridged widely in practice. The constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice are present or they waive this right; this right also was abridged in practice. Most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. While the constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf, in practice corrupt and uneducated judges frequently denied defendants these rights.



The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted rarely, and autopsy reports seldom were issued. The law provides for two criminal court sessions (*assises*) per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for two weeks. Criminal *assises* in Port-au-Prince have met once a year since 1998.

Citizens deported to the country after completing prison sentences in foreign countries were detained until a family member agreed to take custody of them and their prison release order was processed, although there is no provision for such detention in the law. This generally took one to two months but lasted as long as four months in unusual instances.

*Political Prisoners.*—Former Prime Minister Yvon Neptune and a former minister of interior remained in jail at year's end. A judge formally charged Neptune, Joclerme Privert, and 28 former Aristide government officials and Lavalas supporters with orchestrating and carrying out the February 2004 attacks in La Syrie, St. Marc.

In September Amnesty International categorized Father Gerard Jean-Juste as a political prisoner (see section 1.d.).

Other Lavalas partisans still behind bars were implicated in criminal or human rights abuses, but their cases remained mired in the judicial system where they awaited final determination.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the law prohibits such practices, police and other security force elements routinely conducted searches without warrants.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Much of the violence and unrest in the country stemmed from the armed rebellion that forced out President Aristide in February 2004. Common criminality and armed attacks against civilians continued to create fear and panic among the population. The number of kidnappings for ransom increased significantly and occurred at every strata of society. Pro-Lavalas partisans were implicated in violence and numerous killings in Port-au-Prince, including of police officers. At year's end a stronger police presence in the countryside and MINUSTAH and IGOH cooperation assisted in extending governmental authority outside of Port-au-Prince in the pre-election season.

Since September 2004 hundreds of people were reportedly killed in a surge of political violence that followed a series of demonstrations organized by pro-Aristide partisans in Port-au-Prince. The campaign, subsequently known as "Operation Baghdad," included kidnapping, decapitation, and burning of police officers and civilians, indiscriminate shooting at bystanders such as taxi drivers, students, parents, and small merchants, and the destruction and incineration of public and private property. The violence prevented the normal functioning of schools, public markets, the seaport, and the justice system in Port-au-Prince for several weeks in the fall of 2004. Many of the killings were believed to have been carried out by pro-Lavalas armed gangs and by some members of the HNP. In response to the violence, the HNP conducted sweeps of heavily pro-Aristide areas of Port-au-Prince in search of the perpetrators. Many arrests were conducted without warrants, and suspects were held in prolonged detention without seeing a judge (see section 1.d.). While this level of violence waned somewhat early in the year, there was a reemergence during the kidnapping sprees of May and throughout the summer, and it spiked again in November and December, becoming a broader type of criminality committed by gangs with no specific political characteristic.

On March 20, MINUSTAH military and CIVPOL forces raided the police station in Petit-Goave and ejected the ex-FAd'H soldiers who had occupied the station since July 2004. One Sri Lankan peacekeeper was killed, 2 former military members died, 12 were injured, and another 25 were detained and transported back to Port-au-Prince.

Unknown attackers shot and killed a police officer assigned to the security detail of former Justice Minister Bernard Gousse on March 22 at the minister's residence.

On March 28, armed assailants shot and killed two police officers, including Inspector Emmanuel Milien, and a driver assigned to the director general of the National Port Authority.

In Cite Soleil on March 30, rivals of gang leader Robinson "Labanye" Thomas tortured and killed him, reportedly under orders from opposing gang leader "Dread Wilme."

On April 14, a soldier from the Philippine MINUSTAH contingent was shot and killed at a checkpoint near Cite Soleil.

In a separate incident on the same day, ex-FAd'H forces led by Ravix Remissainthe ran a MINUSTAH checkpoint in Terre-Rouge in the Central Plateau, killing a Nepali peacekeeper.

On April 28, armed individuals kidnapped professor, brother of the education minister, and presidential candidate Dr. Jean Henold Buteau from his classroom at the State University. His captors released him after payment of an unspecified ransom.

On May 13, armed attackers attempted to kidnap the president of the Association of Haitian Medical Technicians Elna Eyna in the Nazon section of the capital. Eyna was shot dead on the scene when she resisted her attackers.

On May 21, armed bandits kidnapped Elto Ambroise, an officer in the HNP's specialized crowd control unit, from his home in the Bel Air section of Port-au-Prince. Ambroise's captors killed him the same day.

On May 31, unidentified assailants set fire to a police substation in Portail Saint Joseph and the neighboring *Marche Tete Boeuf* marketplace in downtown Port-au-Prince. More than 10 merchants, mostly women, died in the fire, and commercial losses were estimated in the millions of dollars.

Joint MINUSTAH/HNP operations throughout June and July resulted in the death or capture of various criminal elements in the capital. In the early morning of July 6, MINUSTAH launched an operation into the Bois Neuf area of Cite Soleil, killing gang leader "Dred Wilme" and five of his associates. Varying accounts and some human rights groups estimated that UN troops killed between 50 and 70 civilians that day. An internal UN investigation into the events confirmed that MINUSTAH soldiers killed seven people during the operation. The report also cited the possibility of other civilian casualties during the exchange of gunfire between MINUSTAH soldiers and gang members in Cite Soleil, but the investigation was unable to confirm how many persons died in the crossfire.

In the Port-au-Prince neighborhood of Bel Air on September 29, Brazilian MINUSTAH soldiers shot and killed gang leader "Den Sere." During the same operation, UN soldiers shot and injured gang leader "General Toutou," and the HNP arrested 20 other gang members. The two gang chiefs were suspected of having orchestrated most of the kidnappings and criminal activity in the capital since March.

On October 22, a corporal from the Jordanian MINUSTAH contingent was shot in the head and killed during an operation to free kidnap victims.

On October 27, Jean Dady Ostine (alias "Ti Kenley") was killed during a confrontation in Petit-Goave with MINUSTAH soldiers. Ti Kenley participated in the anti-Lavalas movement that led to departure of President Aristide in February 2004.

There were no further developments in the investigation into the October 2004 summary execution of 13 young persons in the Fort National area of Port-au-Prince, which many witnesses attributed to the HNP. Although the prime minister and chief of police categorically rejected any police involvement in the crime, authorities arrested two active-duty police officers for it in 2004.

There were no further developments and none were expected in the other killings reported in 2004.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Print and electronic media freely criticized the government, but in practice most journalists admitted to some form of self-censorship to avoid offending sponsors or the politically influential.

There were three French-language newspapers, which had a combined circulation of less than 20 thousand readers. Some irregularly printed papers frequently criticized IGOH policies and strongly supported the Lavalas regime. With literacy rates of 52 percent for adults and 65 percent for youth, and limited access to television, the most important medium was radio, especially stations broadcasting in Creole. The 329 radio stations carried a mix of music, news, and talk show programs that many citizens regarded as their only opportunity to speak out on a variety of political, social, and economic issues. The few stations carrying news or opinion freely broadcast a wide range of political viewpoints.

Although most radio stations and other forms of telecommunication nominally were independent, they were subject to a law designating the state as the sole owner and proprietor of the airwaves. The state leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The government did not exercise this right in practice.

In May the nongovernmental organization (NGO) Reporters without Borders issued a report stating that press freedoms had increased but remained fragile since the departure of former President Aristide.

On January 14, an HNP officer shot and killed journalist Abdias Jean while conducting an antigang operation in the Port-au-Prince slum of Cite de Dieu (see section 1.a.).

On February 4, assailants attacked two journalists from pro-Lavalas Radio Megastar in Port-au-Prince. They shot one in front of the station, and the HNP reportedly injured the other.

In March Frantz Altidor, news director of Radio Provinciale in the northwest town of Gonaives, reported harassment stemming from his public demand for an apology from the HNP for calling a press conference and then refusing journalists entry to the police station once they arrived. A week after his request, Altidor's home was invaded; the armed aggressors told him not to bother calling the HNP as they would not help him.

In response to this incident, radio stations in Gonaives held a "solidarity day" on March 14 and only broadcast news involving the attack on Altidor. That evening Fritz Hubert Zamor of Radio Provinciale conducted a radio interview with Altidor. Later that night Jocelin Joseph of Radio Provinciale was stopped and accosted; his aggressors searched his car and told him if they found any indication that he was a member of the press they would kill him and throw him in a ravine. They asserted they were seeking members of the press, including Altidor and Zamor of Radio Provinciale, Marc Andre of Radio Independance, and Honorat Marc Antoine of Radio Etincelles.

On March 27, the local governmental representative of the Artibonite region met with members of the Haut Artibonite Journalist Association, including Altidor, and informed them the HNP director general was investigating a group of 15 police officers suspected of working with gangs in Gonaives. On April 4, the authorities transferred 20 police officers to other posts.

On March 20, radio journalist Robenson Laraque of Radio Telekontak was caught in gunfire during a MINUSTAH operation to root out ex-FAd'H members in Petit-Goave (see section 1.g.). He was flown to the Dominican Republic for medical treatment but died on April 4 as a result of the injuries.

Well-known journalist and talk show host Nancy Roc left the country temporarily in May due to kidnapping threats. She previously left the country in December 2004 following public threats from rebel leader Ravix Remissainthe and private threats from a pro-Aristide source.

On July 14, police discovered the mutilated body of popular and influential journalist Jacques Roches in Port-au-Prince. Roches' death significantly affected the media community. Gang members reportedly kidnapped Roches because of his efforts to promote civil society in the country. Some arrests were made in connection with his death, including that of Father Gerard Jean-Juste, who was suspected of orchestrating Roches' killing (see section 1.d.).

The men in jail for the killings of journalists Brignol Lindor in 2001 and Jean Dominique in 2000 escaped in February 2004. Police rearrested two of those charged with Dominique's death, Dynsley Millien and Jeudi-Jean Daniel, in August of that year. Philippe Markington, the other person charged in that killing, remained at large at year's end. In March 2004, police arrested Port-au-Prince deputy mayor Harold Severe and security agent Rouspide Petion for alleged involvement in the Dominique slaying. In March a court appointed the sixth investigative judge in the Dominique case, but he later removed himself from the case in June.

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

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—While the law provides for freedom of assembly, and the IGOH generally respected the right of citizens to peacefully demonstrate, the HNP sometimes used force to control violent demonstrations.

On February 28, police shot and killed two people during a demonstration in Bel Air commemorating the 1-year anniversary of former President Aristide's departure. There was no investigation into these killings.

During a demonstration staged by pro-Lavalas partisans near the UN headquarters on April 27, HNP officers shot and killed five demonstrators. There were conflicting reports of the events that led to the shooting by police. Local residents claimed that officers from one of two police vehicles present on the scene shot indiscriminately into the crowd of demonstrators as they approached the UN building. Other witnesses reported that some demonstrators turned violent and vandalized cars and property in the area, provoking the police reaction. There was no official investigation into the event by year's end.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice. The Penal Code requires prior

government approval for any association of more than 20 persons that seeks tax benefits and official recognition.

*c. Freedom of Religion.*—The law provides for freedom of religion, provided that practice does not disturb law and order, and the government generally respected this right in practice.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The local Jewish community was very small.

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

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

The law prohibits the involuntary exile of citizens, and there were no reports of its use. During the year former Aristide government officials often imposed internal and external exile upon themselves and their families for fear of retaliation by rebel groups or former military members (see section 1.g.).

An unknown number of undocumented migrants left the country to seek better economic opportunities. The government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries and frequently provided small sums of money to repatriated migrants for transportation. During the year the ONM assisted in the repatriation of 1,828 Haitian citizens.

*Protection of Refugees.*—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

Since there were no known foreign refugees in the country, there was no opportunity for the government to cooperate with the office of the UN High Commissioner for Refugees.

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

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

The political system changed significantly following President Aristide's February 2004 resignation and departure from the country. Boniface Alexandre, president (chief justice) of the Supreme Court, assumed office as interim president in accordance with the constitution. On recommendation from the Council of Eminent Persons, who had been chosen by a tripartite commission including representatives of FL, the Democratic Platform, and the international community, the president chose Gerard Latortue as interim prime minister.

In April 2004 representatives of the IGOH, leaders of the Convergence Democratique, the Group of 184, and at least one branch of the "non-aligned" parties agreed on a transition accord outlining the IGOH's mandate and committing it to organize elections in 2005.

*Elections and Political Participation.*—To implement the commitment to hold elections, the government agreed to appoint a nine-person Provisional Electoral Council (CEP), with representatives from several parties including FL. When FL refused to nominate its representative, the government appointed eight members; after several weeks, it appointed a ninth member to fill the FL slot. The CEP proceeded with its mandate but due to internal conflicts among the members and bureaucratic delays, the CEP pushed back the original October election date until February 2006. The total number of persons registered to vote was approximately 3.5 million.

There were 35 registered candidates for the presidency from across the political spectrum. Former President Jean Bertrand Aristide's Fanmi Lavalas party formed an alliance with Marc Bazin's party—the Movement for the Installation of Democracy in Haiti—and registered him as the Lavalas presidential candidate under the umbrella of Union Pour Haiti. Former President and Lavalas member Rene Preval formed a coalition with the Escamp, Pati Louvri Barye, and Korega parties and ran for president under the banner Front de l'Espoir. Independent and prominent Haitian-American businessman Dumarsais Simeus joined the Tet Ansamn party and registered as the party's presidential pick. Questions about Simeus' citizenship status involving a possible conflict with the constitution placed his candidate eligibility into doubt. The CEP removed him from the list, but the Supreme Court overturned

the CEP's decision and added his name back to the list. The IGOH formed a candidate nationality commission to investigate the citizenship of all candidates wishing to run for president, requiring candidates to resubmit their applications for review. Despite a second supreme court ruling in his favor, Simeus was left off the presidential ballot. Another dual citizen, Mobilization pour le Progres d'Haiti presidential candidate Samir Mourra, was also affected.

The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. Two of the IGOH's 17 cabinet ministers were women. There was one female candidate for the presidency, and a large number of female parliamentary and municipal candidates.

*Government Corruption and Transparency.*—The NGO Transparency International noted that the country was extremely corrupt, and there was a widespread public perception of corruption in all branches of government. In November the HNP director announced that since July more than 50 police had been fired or jailed on allegations of corruption.

There was no law requiring public access to government information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The IGOH cooperated with the various human rights observation missions and generally acknowledged their views but lacked the capacity to implement their recommendations. The government permitted special missions and the continued presence of UN bodies and other international organizations such as the ICRC, the UN Independent Expert on Human Rights, the UNDP, the IACHR, MINUSTAH's Human Rights Office, and the Organization of American States' Special Mission's human rights office.

From April 18 to 22, the IACHR conducted an onsite mission in the country. Based on meetings with members of the government, judicial sector officials, police leadership, electoral council members, MINUSTAH officials, NGOs, and civil society, the delegation concluded that the lack of a comprehensive disarmament program and a severely understaffed and poorly equipped police force helped to create instability. The delegation estimated that 600 persons, including 19 police officers, had been killed in acts of violence since September 2004. The commission also said that the security situation had been exacerbated by the poorly functioning judicial system and called on authorities to increase efforts to reduce the number of people in prolonged pretrial detention. The IACHR commended the national dialogue process and urged citizens from all political parties to move beyond confrontation and toward reconciliation.

At the national and international levels, human rights organizations were active and effective in monitoring human rights issues, meeting frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the National Coalition for Haitian Rights, the Lawyers' Committee for the Respect of Individual Liberties (CARLI), the Ecumenical Center of Human Rights, and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. Human rights organizations continued to focus on issues that were persistent problems in the country, including prison conditions, the widespread lack of health facilities, and impunity for criminals. All reported receiving threats as a result of their work.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the constitution, received complaints of abuse at all levels of government. The government did not directly impede OPC investigations but did not always respond to its requests for information. Relations between the OPC and major human rights organizations such as the Platform for Human Rights and CARLI continued to be positive. Budgetary problems limited the OPC to four employed investigators, which hindered its ability to investigate human rights abuses.

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

The law does not specifically prohibit discrimination on the grounds of race, gender, disability, language, or social status. It does provide for equal working conditions regardless of gender, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions.

*Women.*—The law prohibits and provides penalties for rape and domestic violence against women. In September the IGOH issued a presidential decree that categorized both rape and adultery as crimes punishable by a maximum of 10 years'

imprisonment. Gang rape and premeditated, aggravated assault carried a penalty of 15 years' hard labor.

According to women's rights groups and human rights organizations, rape and other abuses against women were commonplace and increased, both within and outside marriage. Women's shelters and organizations reported that local armed thugs frequently raped and harassed girls and women in slums such as Cite Soleil and Martissant. Police rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment in retaliation. The Haitian Group for the Study of Karposi's Syndrome and Opportunistic Infections reported treating an average of 25 rape victims per month during the year, compared with 22 per month in 2004. The majority of assaults took place in Port-au-Prince. There were no government-sponsored programs for victims of violence. The Criminal Code excuses a husband who kills his wife or her partner upon catching them in an act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

Although prostitution is illegal, it remained a problem.

The law does not specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector. Women reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men.

Women did not enjoy the same social and economic status as men. In some social strata, tradition limited women's roles. A majority of peasant women remained in traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often had limited employment opportunities, such as domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but rarely were enforced. Female employees in private industry or service jobs, including government jobs, seldom were promoted to supervisory positions.

Domestic women's rights groups were small, localized, and received little publicity. Some women's rights groups became increasingly involved in political and civic voter education initiatives in the pre-election season.

*Children.*—Governmental agencies and programs to promote children's rights and welfare existed, but the government lacked the capacity and the resources to adequately support or enforce existing mechanisms.

According to the 1987 constitution, public primary education is free and compulsory, but in practice many children did not have access due to the insufficient number of public schools. Nearly 90 percent of schools were managed by religious institutions or NGOs. The high cost of private education was an impediment for families who must pay school fees and incur costs for uniforms, books, and school supplies. Poorer families sometimes rationed education money to pay school fees only for male children. Schools were dilapidated and understaffed. According to the government, 40 percent of children never attended school. Of those who did, less than 15 percent graduated from secondary school. The Ministry of Education estimated net primary school enrollment at 65 percent but acknowledged that 500 thousand children aged 6 to 11 were not in school (the real number was thought to be much higher). In addition nearly 75 percent of adolescents were not in school. The IGOH did not have adequate programs in place to address the educational and social reinsertion needs of the out-of-school youth population.

According to the most recent UNICEF statistics from 2004, approximately 23 percent of all children under the age of 5 were chronically malnourished.

Child abuse was a problem. There was anecdotal evidence that in very poor families, caretakers deprived the youngest children of food to feed older, income-generating children.

Although the law prohibits corporal punishment of children, in practice corporal punishment was accepted as a form of discipline, especially in schools.

There were reports that children were trafficked within the country and forced to work as domestic servants, called *restaveks* ("to live with" in Creole) (see sections 5, Trafficking and 6.d.).

Port-au-Prince's large population of street children included many *restaveks* who were dismissed from or fled employers' homes. The Ministry of Social Affairs provided minimal assistance, such as food and temporary shelter, to street children.

In November a joint UNICEF/IACHR delegation expressed concern over grave violations of the human rights of children and adolescents being committed as part of the ongoing violence in the country. It said that children lived in fear and in extreme poverty and that the "increasingly generalized absence of the state" left them "extremely vulnerable and exposed to various forms of violence."

There were no new developments in the case of Wilfort Ferdinand "Ti Will," former member of the Cannibal Army and current member of the Reconstruction Front of the Artibonite, who shot and killed 6-year-old Francesca Gabriel in Gonaives in November 2004 in crossfire during a lovers' dispute.

*Trafficking in Persons.*—Although the law prohibits trafficking in women and children, internal trafficking of children for domestic labor remained a problem, and the country also was a source for trafficked persons to the Dominican Republic, the United States, Europe (mainly France), and Canada.

There were no penalties for trafficking in persons. The government acknowledged the problem of internal trafficking and took steps to address it. Although the HNP's Brigade for the Protection of Minors was responsible for investigating cases of child trafficking and monitoring movement of children across the border with the Dominican Republic, it was barely functional, and resource issues remained a barrier to its operational capacity. Government officials at local and national levels were trained on the legal framework for children's rights and methods of intervention to prevent and punish abuse of *restaveks* and trafficking.

Government officials assisted in international investigations of trafficking. In November the HNP, in coordination with MINUSTAH and the Dominican Consul General, conducted an operation to rescue 13 young Dominican women who had been trafficked into Haiti and forced to work in a brothel. Police arrested a Haitian suspect and repatriated all 13 girls to the Dominican Republic the following day.

Rural families continued to send young children, particularly girls, to more affluent city dwellers to serve as *restaveks* in exchange for that child's room and board. While some *restaveks* received adequate care, including an education, the Ministry of Social Affairs believed that many employers compelled the children to work long hours, provided them little nourishment, and frequently abused them. The majority of *restaveks* worked in low-income homes where conditions, food, and education for nonbiological children were not priorities.

The results of the most recent study of trafficking across the border conducted by UNICEF in 2002 reported that between two thousand and three thousand children were trafficked to the Dominican Republic each year.

Consulates along the Dominican border monitored the movement of children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice continued to circulate memoranda to magistrates around the country in an awareness-heightening campaign on the antitrafficking law and on child labor laws. To address some of the social aspects of the *restavek* practice, the government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. While the constitution provides that persons with disabilities have the means to ensure their autonomy, education, and independence, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities.

*Other Societal Abuses and Discrimination.*—Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs sponsored by foreign donors, including a grant to a local clinic and efforts by HIV/AIDS activists, attempted to change that stigma.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers (except public sector employees) to form and join unions of their choice. The International Labor Organization (ILO) Committee of Experts commented on the need for the government to recognize by law the right of public servants to organize. The law also requires that a union have a minimum of 10 members and register with the Ministry of Labor and Social Affairs within 60 days of its formation. The law prohibits employers, management, and anyone who represents the interests of employers from joining a union. In theory unions are independent of the government and political parties, but in practice most unions were extensions of political parties. Nine principal labor federations represented approximately 5 percent of the labor force. Union membership decreased significantly, but unions remained active in the public sector.

*b. The Right to Organize and Bargain Collectively.*—While the law protects trade union organizing activities and stipulates fines for those who interfere with this right, in practice the government made little effort to enforce the law.

High unemployment rates and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers were problems in the assembly sector.

Although workers had access to labor courts established to resolve common labor-management disputes, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was inefficient. Seven labor courts operated in Port-au-Prince, and in the provinces plaintiffs utilized municipal courts.

The Labor Code provides for the right to strike, and workers (with the exception of managers, administrators, other heads of establishments, and public utility service workers) exercised this right in practice. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year.

There is one export processing zone (EPZ) located in Ouanaminthe, a town on the Dominican border. Legislation governing free trade zones provides that the Labor Code applies in the EPZs.

Since early February 2004, workers complained of exploitation and mistreatment by management of the Grupo M textile company, located in the EPZ. Rounds of strikes and violence by union members, supported by Batay Ouvriye, a labor organization of peasant workers, were followed by a series of employee terminations by the company throughout that summer. In late May Grupo M and Batay Ouvriye reached a mutually acceptable agreement. Since then, both sides adhered to their sides of the bargain; Grupo M slowly rehired laid-off union workers, and Batay Ouvriye negotiated responsibly with the company management.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor for adults and minors, the government failed to enforce this law with regard to children, who continued to be subjected to forced domestic labor as *restaveks* in urban households, sometimes under harsh conditions (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The law prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. Government agencies lacked the resources to enforce relevant laws and regulations effectively. According to the NGO Haitian Coalition for the Defense of the Rights of the Child, children worked primarily as *restaveks*; however, some worked on the street as vendors or beggars, and some were involved in prostitution.

In 2003 the results of a joint governmental-NGO funded study, which covered the fiscal years 2001–02, noted that 173 thousand children (8.2 percent) between the ages of 5 and 17 years, worked as *restaveks*. Labor laws require anyone who has a child domestic in their employ to obtain a permit from the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) and to ensure the overall welfare of the child until they reach 15 years of age. Additionally the law requires that *restaveks* 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismissed many *restaveks* before they reached that age.

The government has not ratified and does not adhere to ILO Convention 182 on elimination of the worst forms of child labor.

Although the government designated IBESR to implement and enforce child labor laws and regulations, resources were inadequate to fund programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies.



*e. Acceptable Conditions of Work.*—The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the president (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). This wage did not provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis and earned more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The law sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. The law was not effectively enforced, particularly for HNP officers who worked 12-hour shifts 6 days per week. There is no provision for the payment of overtime.

The law also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines, but the Ministry of Labor and Social Affairs did not enforce them effectively. There were no formal data, but unions alleged that job-related injuries were prevalent in the construction industry and public works sectors. Although they have the legal right to do so, in practice with more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

## HONDURAS

Honduras is a constitutional democracy with a population of approximately seven million. In November national elections, considered by international and domestic observers to be generally free and fair, voters elected as president Jose Manuel Zelaya Rosales of the Liberal Party. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces, particularly the police, acted independently of government authority.

Government corruption, impunity for violators of the law, and gang violence exacerbated serious human rights problems in a number of areas. The following human rights problems were reported:

- extrajudicial killings by members of the police
- arbitrary and summary executions committed by vigilantes and former members of the security forces
- beatings and other abuse of detainees by security forces
- harsh prison conditions
- impunity for human rights violations
- failure of the authorities to provide due process of law
- lengthy pretrial detention
- lack of government funding, institutional weakness, and judicial corruption
- illegal searches
- erosion of press freedom
- violence and discrimination against women
- child prostitution
- child abuse
- trafficking in persons
- discrimination against indigenous people
- discrimination against persons based on sexual orientation
- lack of effective enforcement of labor laws
- child labor

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, members of the security forces were suspected of direct involvement in extrajudicial, arbitrary, and summary killings. As in previous years, nongovernmental organizations (NGOs) reported killings of youths and children by vigilante groups that also may have included

members of the security forces (see section 5). No charges were filed nor convictions rendered against any persons in relation to such alleged killings. Between 1998 and October, the NGO Casa Alianza reported the killings of 2,879 children and young adults under the age of 23 and averred that government security forces were possibly involved in 9 of these killings.

Authorities sought or detained a number of police officials for their involvement in the killings of various individuals (see section 5).

By year's end there were no further developments, and none were expected, regarding the August 2004 appeals court ruling finding police officer Juan Carlos "Tiger" Bonilla and three other police officers innocent of a 2002 extrajudicial killing.

There were a number of deaths of prisoners caused by members of the security forces (see section 1.c.).

There were no further developments, and none were expected, in the investigation into the 2003 killing allegedly by two police officers of Eric David Yanez, a transgender person (see section 5).

On August 30, unknown assailants kidnapped and killed Jose Mario Garcia, the head of human resources at the Ministry of Public Works, and an unsuccessful candidate in the National Party's congressional primaries. An investigation was pending at year's end.

On September 11, unknown actors shot and killed Francisco Cruz Galeano, a General Confederation of Workers (CGT) union leader, in Ojo de Agua. It was not clear if Cruz's killing was connected to his union activity. An investigation was pending at year's end.

On October 2, two unknown actors shot and killed Rene Arturo Madrid Chinchilla, president of the Liberal Party Council for Tegucigalpa. By year's end police closed the case, calling it a robbery.

At year's end an investigation remained pending into the December 2004 killing, allegedly by gang members, of Christian Democratic congressional candidate Luis Armando Genawer Paguada.

There were no developments, and none were expected, in the 2003 killing by unknown assailants of environmental activist Carlos Arturo "Oscar" Reyes.

At year's end charges remained pending against Marco Tulio Vasquez Juarez for the 2003 killing of Jose Daniel Chinchilla Lara, the Vice President of La Central Cooperativas Cafetaleras de Honduras.

Arlin Daniel Escobar Moli remained under arrest with charges pending for the 2003 killing of priest Guillermo Antonio Salgado.

At year's end police had not arrested any suspects in connection with the 2001 killing of Nationalist Party congressional candidate Angel Pacheco. On September 16, however, Pacheco's body was exhumed for DNA analysis as part of the ongoing investigation. Due to decomposition of the body, no conclusive results were obtained. At year's end Pacheco's family and international groups continued to press the government to increase efforts to resolve the case.

In 2004 the government accepted responsibility for human rights abuses committed in the 1980s and promised to comply with Inter-American Court of Human Rights rulings regarding these killings. During the year a number of active and former military and police officials continued to face criminal charges for various human rights abuses, including the killings of 184 persons in the 1980s. Although most of the defendants were charged by the Public Ministry with illegal detention and murder, by year's end the Public Ministry remained unable to bring new cases against these individuals, including former members of the disbanded army Intelligence Battalion 3-16 (see section 1.b.).

During the year there were several exhumations of clandestine graves of persons believed to have been killed in the 1980s, but by year's end the remains had not been positively identified. Human rights organizations continued to seek information from various grassroots sources to locate other clandestine graves for future exhumations to advance prosecutions against alleged human rights violators. By law courts will not accept a case unless the body of the victim has been recovered and positively identified. An identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court. Although investigations continued, by year's end no charges had been brought against any individuals as a result of these exhumations.

During the year there were no new developments, and none were expected, in the September 2004 acquittal of Jorge Adolfo Chavez Hernandez, formerly of Battalion 3-16, charged with the 1998 killing of environmental activist and councilperson Carlos Antonio Luna Lopez. At year's end cosuspect Jose Angel Rosa Rosa remained under arrest on unrelated charges, and suspects Italo Ivan Lemus and Marcos Mo-

rales remained at large. The case, brought by two NGOs in January 2004 before the Inter-American Court of Human Rights, remained pending.

There were no further developments in the Public Ministry's July 2004 appeal of the 2003 acquittal and release of Jaime Ramirez Raudales in relation to the 1988 political killings of social activists Miguel Angel Pavon Salazar and Moises Landaverde Recarte.

At year's end the appeals court had not issued a judgment in the case involving retired Major Manuel de Trejo Rosa, who remained under house arrest for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina (see section 1.c.).

By year's end the Supreme Court of Justice had not rendered a decision in the case of Raymundo Alexander Hernandez Santos for the 1982 illegal detention and killing of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz.

In November Colonel Jaun Blas Salazar was detained by police for the murder and illegal house search of two individuals in the 1980's. The matter remained under further investigation at year's end.

During the year the Ministry of Public Security reported 49 police officers killed by unknown actors, noting that possibly 18 of these killings were committed by gangs. These killings included the July 6 torture, mutilation and killing under suspicious circumstances of two police officers, one of whom was pregnant.

Violent crime continued to fuel the growth of private unlicensed security guard services and vigilante groups that patrolled neighborhoods and municipalities allegedly to deter crime. Neighborhood watch groups called Citizen Security Councils (CSCs) reportedly took the law into their own hands. Human rights activists continued to assert publicly their belief that some CSCs, as well as private security companies with ties to former and current military or police officials, acted as vigilantes or death squads targeting youth and other elements of the population, with the tacit complicity of police.

The media reported that based on information from government sources, vigilante activities allegedly led to more than 970 killings in the last 7 years of known and suspected criminals, as well as gang members, street children, and youth not known to be involved in criminal activity (see section 5). Approximately 80 persons have been arrested over the past 7 years in connection with such killings, with 9 of those convicted by year's end.

At year's end the investigation remained pending regarding the March 2004 killing of Cesar Virgilio Pinot, allegedly by Agro Oriental security guards.

In December indigenous leader Feliciano Pineda was acquitted of the 2001 killing of Juan Reyes Gomez, but at year's end he remained in prison on other charges (see section 5).

During the year the Inter-American Court of Human Rights opened a formal case concerning the 2000 complaint filed by Casa Alianza against the government in connection with the illegal detention and killing by police of four youths in 1995, known as the "four cardinal points case." In its 2004 response to the court, the government accepted responsibility for the illegal detentions and killings of the youths but argued that there has never been a state policy to order the killings or to tolerate them.

*b. Disappearance.*—There were no reports of politically motivated disappearances. As of August, according to the Ministry of Public Security, there had been seven kidnappings for ransom, compared with four kidnappings during 2004.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there were instances in which government officials employed them, including police beatings and other abuse of detainees.

On July 30, in Renaciedo juvenile correctional center, authorities detained and allegedly beat Herlan Fabricio Ramirez Colindres, a 16-year-old gang member suspected of committing several violent crimes, including the killing of DEA agent Michael Marke. Authorities reportedly left Ramirez handcuffed for more than 24 hours. Human rights activists protested the treatment of Ramirez and other minors held at the same detention center.

On May 30, Gregoria Flores, Garifuna rights activist and coordinator of the NGO OPRANEH (Organizacion Fraternal Negra Hondurena), was shot and injured in La Ceiba while collecting testimony to present before the Inter-American Court of Human Rights regarding the Garifuna community's land rights disputes with development interests. Police reported that the shooting was a robbery attempt, but indigenous rights advocates did not believe that this was a credible explanation and continued to push for a reopening of the investigation.

Regarding the cases of those accused of the 1982 illegal detention and torture of six students, on April 12, the case of retired Captain Billy Fernando Joya Amendola was appealed to a higher court, but the courts continued to deny appeals by the Public Ministry to reinstate his arrest warrant. The Public Ministry's appeal of the dismissal of charges in 2004 against retired Colonel Juan Evangelista Lopez Grijalba remained pending. At year's end Lopez Grijalba remained free on bail.

There were no further developments in the Supreme Court of Justice's 2004 injunction ordering the appeals court to issue a new judgment in the case of retired Major Manuel de Jesus Trejo Rosa, arrested with Raymundo Alexander Hernandez for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina.

*Prison and Detention Center Conditions.*—Prison conditions were harsh, and prison security was poor. Human rights groups reported that prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. In many cases prisoners relied on outside help from visitors to survive because the prison system did not provide adequate food or other basic necessities. Prison escapes, through bribery or other means, remained a frequent occurrence. Herlan Fabricio Ramirez Colindres (see section 1.a.), escaped from two different prisons prior to incarceration on November 26, in the minors facility at Renacer prison. Of the year's prison population of 11,545, approximately 905 inmates were gang members.

Prison disturbances, caused primarily by harsh conditions and inter-gang violence, occurred in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. During the year 19 gang members were killed in prison, in some cases by members of rival gangs. Casa Alianza reported the deaths of four youths in prisons and juvenile detention centers. Prison authorities attempted to hold prisoners of opposing gangs in different facilities or in different areas of the same prison to reduce inter-gang tensions and violence.

At year's end no charges had been filed, and there were no further developments, in the investigation of the May 2004 fire at the San Pedro Sula prison that killed 107 gang members.

There were no further developments in the pending court cases of 51 persons charged in 2004 with murder and other criminal offences for alleged involvement in the deaths of 68 persons in 2003 at El Porvenir prison near La Ceiba.

Due to the government's failure to allocate resources for alternative facilities, prisons held persons with mental illnesses, as well as those with tuberculosis and other infectious diseases, among the general prison population. Human rights organizations accused prison officials of using excessive force against prisoners, including beatings, as well as isolation and threats.

Although women generally were held in separate facilities under conditions similar to those of male prisoners, female prisoners did not have conjugal visit privileges. At certain lower security prisons, women were held with the general population. Children up to age two were permitted to stay with their mothers in prison. Pretrial detainees generally were held together with convicted prisoners.

The government operated juvenile detention centers in Tamara (one for boys and one for girls), El Carmen (for boys) in San Pedro Sula, and in Jalteva (for boys) near Tegucigalpa, but sometimes detained minors with adult prisoners in adult prisons facilities.

During the year Casa Alianza and the Honduran Institute for Children and the Family (IHNFA) signed an agreement to use: \$52,910 (1 million lempiras) to develop a mental health program in youth rehabilitation centers, another \$52,910 (1 million lempiras) to create a scholarships program to reintegrate youth into society after incarceration or other detention; and \$9,524 (180 thousand lempiras) to complete a building in Choluteca for an IHNFA office to manage issues of children in conflict with the law. By November Casa Alianza had received a check for \$52,910 (1 million lempiras) to begin undertaking these projects.

There were no further developments in the 2004 negotiations between the government and Casa Alianza regarding Casa Alianza's complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1995.

The government generally permitted prison visits by independent local and international human rights observers, and such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but the authorities at times failed to observe these prohibitions.

*Role of the Police and Security Apparatus.*—The Ministry of Public Security oversees police operations, including those of the Preventive Police, Direccion General de Investigaciones Criminal (DGIC), Transit Police, Frontier Police, Tourist Police,

and Prison Police. Police lacked training and funding, and were understaffed. Corruption was a serious problem. The Ministry of Public Security reported that from 2000 through August, 186 police officials had been prosecuted and 1,344 had been fired for reasons ranging from incompetence to corruption. There was widespread public concern regarding the perceived inability of the security forces to prevent and control crime, and the public continued to believe that corrupt security personnel were complicit in the high crime rate.

During the year police and military continued joint patrols of the streets. Gang violence and intimidation remained serious problems, and gangs continued to harass, threaten, and rob passengers on public transportation, causing the government to station security officers on many public buses. Perpetrators of killings against youth and minors, including in some instances police, continued to act with impunity.

The Office of Internal Affairs investigates allegations of illegal activities committed by members of the police force. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR) that conducts internal reviews of police misconduct.

The NGO CODEH continued government-funded programs to train staff of the Prison Police to avoid committing acts of torture. During the year police and military officials took human rights training provided by international donors.

*Arrest and Detention.*—The law states that police may arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime or when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or is caught with evidence related to a crime. Police must clearly inform the person of the grounds for the arrest. Police must bring a detainee before a competent authority within 24 hours. The prosecutor has 24 hours to decide if there is probable cause for an indictment, and a judge then has 24 hours to decide whether to issue a temporary detention order that can last up to 6 days. Within this time period, a pretrial hearing must be held for the judge to examine probable cause and make a decision on whether or not pretrial detention should continue. The law provides for bail for persons charged with felonies. The law also provides for prisoners to have prompt access to family members. Although the law provides that prisoners have prompt access to a lawyer of their choice and that the state affords legal counsel for indigent prisoners, these requirements were not always followed in practice.

There were no reports of political detainees.

Lengthy pretrial detention was a serious problem. During the year approximately 63 percent of the prison population awaited trial. The law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. Due to judicial inefficiency and corruption and lack of sufficient resources allocated by the government, many pretrial detainees already had served time in prison equivalent to the maximum allowable for the crime for which they were accused. Many prisoners remained in jail after being acquitted or having completed their sentences due to the failure of responsible officials to process their releases.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judicial system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to patronage, corruption, and political influence.

Low wages and lack of internal controls rendered judicial officials susceptible to bribery, and powerful special interests still exercised influence in the outcomes of court proceedings.

During the year 74 percent of approximately 221,000 cases pending under court procedures organized in 2004 were purged. The law requires backlogged cases to be resolved by 2006.

There are 12 appeals courts, 77 courts of first instance with general jurisdiction, and 330 justice of the peace courts with limited jurisdiction. The Supreme Court of Justice names all lower court judges. The media and various civil society groups expressed concern that the 8–7 split between the National and Liberal parties on the court resulted in politicized rulings by the Supreme Court of Justice.

*Trial Procedures.*—The law provides for the right to a fair public trial. Although the law provides that the accused is presumed innocent and has the right to an initial hearing by a judge, to bail, to consult with legal counsel in a timely manner, to have a lawyer provided by the state if necessary, as well as a right to appeal, the rights of defendants were not always observed.

Although the law prohibits cases from proceeding where a suspect lacks legal representation, the government allocated minimal resources to the public defender pro-

gram. As a result, the public defender was not able to meet the demand for legal assistance to those unable to afford representation.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the law generally prohibits such actions, a legal exception allows entry at any time in the event of an emergency or to prevent the commission of a crime. There continued to be credible charges that police personnel failed at times to obtain the needed authorization before entering a private home.

Garifuna and other indigenous rights leaders continued to complain that the government failed to redress previous actions by private and public security forces that dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see section 5). Despite reforms to the civil service system, party membership often was necessary to obtain or retain government employment.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Although the law generally provides for freedom of speech and of the press, demonstrators are restricted from using statements that could incite persons to riot.

On May 19, the Supreme Court of Justice repealed a legal provision outlawing insult of public officials. Some journalists admitted to practicing self-censorship when their reporting challenged the political or economic interests of media owners.

A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the country's news media. The government influenced media coverage of its activities through the granting or denial of access to government officials. In May all three branches of the government and several private organizations continued the practice of granting awards, some accompanied by substantial sums of cash, to individual reporters, editors, cameramen, photographers, and editorial cartoonists on Journalists' Day. NGOs that monitor press freedom viewed these awards as an acknowledgment by the granting institutions of perceived services rendered. The government had considerable influence on the print media through granting or withholding official advertisements funded with public funds.

The news media continued to suffer from internal corruption, politicization, and outside influences. Ministers and other high-ranking government officials obtained press silence through hiring journalists as public affairs assistants at high salaries and paid journalists to investigate or suppress news stories.

When the news media attempted to report in depth on national politicians or official corruption, media members were sometimes denied access to government information. The NGO Reporters Without Borders reported that on November 15, the power cables of local radio station Virtud Stereo were cut with machetes allegedly by Liberal Party members, to suspend broadcasts that contained National Party advertisements during national elections.

On February 18, the Inter American Press Association (IAPA) submitted a letter to then president Maduro asking for immediate action to end hostile acts against the media by then president of the National Congress Porfirio Lobo Soso. The IAPA criticized Lobo's use of the media as a public forum to advocate for the elections law. The former Maduro government regularly used the Cadena Nacional to preempt all television and radio broadcasts to present presidential addresses. Legally, the heads of the executive, legislative, and judicial branches, as well as the president of the Supreme Electoral Tribunal, have access to use the Cadena Nacional. During the year, the president of Congress, who was also a candidate for the presidency, used the Cadena Nacional on several occasions.

During the year there were several reports of threats or lawsuits against journalists by powerful persons, including legal cases against journalists for their reports on corruption.

At year's end the March 2004 appeal by journalist Renato Alvarez to the Supreme Court of Justice remained pending. Alvarez was seeking an annulment of his sentence for defamation and slander.

In March 2004 an unknown assailant shot and injured journalist Edgardo Castro in San Pedro Sula. There was no indication that the assailant was motivated by Castro's role as a journalist. Police captured and detained two suspects at that time. An investigation was pending at year's end.

There were no further developments regarding the investigation into anonymous telephone threats received in November 2004 by Jhonny Lagos, the director of a new small independent monthly newspaper, *El Libertador*, and his family.

At year's end, there were no new developments, and none were expected, in the 2003 killing of journalist German Antonio Rivas.

The government did not restrict academic freedom or Internet access.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law generally provides for freedom of association, and the government generally respected this right.

*Freedom of Association.*—The law generally provides for freedom of association, and the government generally respected this right in practice; however, the criminal associations law prohibits illicit association and prescribes prison terms of 3 to 12 years (see section 4). During the year gay rights advocacy groups expressed concerns that the law prohibiting illicit associations could be used to criminalize social activities and organizations of the gay community. During the year the law prohibiting illicit associations was used to arrest individuals for being members of Mara Salvatrucha and other gangs.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

*Societal Abuses and Discrimination.*—There were no reports of discrimination or violence against religious groups including anti-Semitic acts. The Jewish population constituted approximately 100 persons.

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

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

The law does not explicitly prohibit forced internal or external exile, but the government did not employ this practice during the year.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. During the year the government accepted eight Cuban refugees for resettlement. The government cooperated with the UN High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees and asylum seekers.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. Active members of the clergy and of the military and civilian security forces are not permitted to vote.

*Elections and Political Participation.*—In November national elections, which were described by international observers as generally free and fair, Jose Manuel Zelaya Rosales of the Liberal Party received a plurality of votes and became president-elect. Observers noted irregularities at approximately 1,100 ballot boxes but no systemic patterns of fraud.

Several Protestant ministers ran and won in the February primary elections, but the Supreme Electoral Tribunal declared their candidacies invalid for technical reasons prior to the general November elections, and they were replaced on the ballots.

Opportunities for women to participate in politics remained limited, particularly for those seeking elected office. During the year 32 women were elected as members in the 128-seat National Congress, which was the largest number of women ever elected to the legislature. There were 9 female justices, 1 of whom was president, on the 17-member Supreme Court of Justice.

There were few minorities or indigenous people in leadership positions in government or politics. For the first time in the country's history, there were 3 Garifuna (see section 5) congresspersons in the 128-seat legislature, but there were no members from other ethnic minority or indigenous communities.

*Government Corruption and Transparency.*—The executive and legislative branches were subject to corruption and political influence. During the year the government implemented an anticorruption policy based on institutional reforms and prosecution of public and private sector officials accused of corruption. There remained, however, a widespread perception among the public and international observers that the government's anticorruption institutions were unwilling or lacked

the professional capacity to investigate, arrest, and prosecute those involved in high-level corruption.

On May 1, Ramon Romero, director of immigration, was removed from his position, arrested, and charged with various counts of corruption. At year's end the case was pending trial and Romero remained under house arrest.

There were no laws permitting citizens to have access to information regarding government operations or decisions.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with these groups and were responsive to their views.

On September 12, Juan Almendares Bonilla, executive director of the NGO Center for the Prevention, Treatment and Rehabilitation of Torture Victims and Their Relatives (CPTRT) and the presidential candidate for the Democratic Unification Party, reported that two men accosted and intimidated him on the street and also that unknown individuals subsequently made threatening phone calls to Bonilla and his relatives. On September 19, unknown assailants attempted to break into the CPTRT office in Tegucigalpa.

There were no new developments in the pending investigation of the April 2004 killing of human rights activist Marvis Guelio Perez and the May 2004 assault of Jose Idalecio Murillo, a leader of the Regional Coordination of Popular Resistance.

The government cooperated with international organizations such as the International Committee of the Red Cross, but no visits by these organizations occurred during the year.

The National Human Rights Commission (NHRC), an autonomous government institution, was headed by Human Rights Commissioner Ramon Custodio Lopez. The NHRC director had free access to all civilian and military institutions and detention centers and functioned with complete immunity and without government or political party interference. The government generally cooperated with, but allocated inadequate financial or other resources to, the NHRC. There was no information available regarding any reports produced by the NHRC during the year.

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

The law prohibits discrimination based on race, gender, disability, language, or social status. In practice, however, political, military, and social elites generally enjoyed impunity under the legal system.

*Women.*—Violence against women remained widespread. The law criminalizes domestic violence with imprisonment between two and four years. The law does not impose fines for domestic violence, and its only sanctions for violators are community service and 24-hour preventive detention if the violator is caught in the act. The law provides a maximum sentence of three years' imprisonment for disobeying a restraining order connected with the crime of intra family violence.

The government did not enforce the law effectively with regard to domestic abuse. During the year the Public Ministry received 5,891 reports of alleged domestic violence, resulting in 2,320 convictions; 3,571 cases remained under investigation. There were 2,040 reports of alleged intra family violence, a more serious crime under the law, with 1,034 cases prosecuted and 1,006 under investigation. There were 1,074 reports of rape, resulting in 466 convictions and 608 cases under investigation.

The government worked with CARE and other NGOS to provide specialized training to police officials on enforcing the law relating to domestic violence. There were two facilities that specifically provided physical shelter for battered women. Both shelters were operated by NGOs. The shelter in Tegucigalpa could accommodate 20 women and their families. Additionally, six other private centers for battered women offered legal, medical, and psychological assistance.

The penalties for rape range from 3 to 9 years' imprisonment, and the courts enforced these penalties in practice. Because all rapes, with the possible exception of spousal rape, which is evaluated on a case by case basis, are considered public crimes, a rapist can be prosecuted even if the victim does not want to press charges.

Whereas adult prostitution is legal and relatively widespread, the law prohibits promoting or facilitating for purposes of prostitution.

Women were trafficked for sexual exploitation and debt bondage (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace and provides penalties of one to three years' imprisonment. Sexual harassment continued to be a problem, but



the government did not effectively enforce the law. Despite legal protections against such practices, workers in the textile export industries continued to report that they were required to take pregnancy tests as a condition for employment.

The majority of women worked in lower status and lower paid informal occupations, such as domestic service, without legal protections or regulations. Women were represented in small numbers in most professions, and cultural attitudes limited their career opportunities. Under the law, women have equal access with men to educational opportunities. The law requires employers to pay women equal wages for equivalent work, but employers often classified women's jobs as less demanding than those of men to justify paying them lower salaries.

Whereas women and men are accorded equal rights under the law, including property rights in divorce cases, in practice women were not granted such rights.

The government maintained a cabinet-level position directing the National Women's Institute, which develops women and gender policy. Several NGOs actively addressed women's issues, including the Center for the Study of Women-Honduras, which dealt with trafficking in persons, commercial sexual exploitation, domestic workers, and other issues.

*Children.*—The government was committed to children's rights and welfare. The educational system, however, faced fundamental problems, including high dropout rates, low enrollment at the secondary level, unbalanced distribution of government spending, teacher absenteeism, and low quality of classroom education.

Although the law provides for free, universal, and compulsory education through the age of 13, the government estimated that as many as 118 thousand out of 1,146,195 children ages 6–11 did not receive any schooling during the year. According to a 2002 National Institute of Statistics (INE) study, the most recent available, only one of two students made it to the sixth grade.

Girls and boys had equal access to medical care.

Child abuse was a serious problem. The law establishes prison sentences of up to three years for persons convicted of child abuse. The Public Ministry received 646 reports of alleged crimes against children, including child abuse, with 183 cases tried and 463 cases under investigation at year's end.

Trafficking in children for commercial sexual exploitation and child prostitution were problems (see section 5, Trafficking).

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

The government was unable to improve the living conditions or reduce the numbers of street children and youth. The government and children's rights organizations estimated that during the year there were 20 thousand street children, half of whom had shelter. Many street children were sexually molested or exploited. The Tegucigalpa city administration operated 12 temporary shelters with a total capacity of 240 children. The NGO Casa Alianza operated 3 shelters for 160 children, 1 for victims of commercial sexual exploitation, 1 for street children, and 1 for children with substance abuse problems.

Abuse of youth and children in poor neighborhoods and in gangs remained a serious problem. Violence and deprivation of the basic necessities were constant issues. Members of the police and members of the general population engaged in violence against poor youth and children (see sections 1.a and 1.c). Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Press reports during the year noted that 431 children and young adults (age 23 and under) were killed. Casa Alianza indicated possible police involvement in a number of these incidents.

Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders. The Ministry of Public Security acknowledged that individual police officers had been investigated for participation in killings of street youth. By year's end international NGOs, including CARE, and foreign government donors had provided training in domestic violence, and other human rights problems for police and armed forces units.

From July 2003 through December, the Special Investigative Unit on Child Killings had received 980 cases, 190 of which were forwarded to the Public Ministry for prosecution with the remaining 790 under investigation. Of the 190 cases forwarded to the Public Ministry, gang members were thought to be responsible in 44 percent of the cases, other private individuals in 44 percent of the cases, and police or other government officials in 12 percent of the cases.

The law outlaws illicit association, including gang and organized crime membership, and prescribes prison terms ranging from 3 to 12 years, depending on the individual's level of involvement and seniority. Through November 364 persons were de-

tained for illicit association. Human rights organizations continued to criticize the law and its implementation. Year-end statistic indicated that there were approximately 30 thousand to 40 thousand persons, many of them minors, belonging to gangs in the country. Membership was primarily confined to the Tegucigalpa and San Pedro Sula areas. The Mara Salvatrucha (MS 13) and the Mara 18 were the largest and most violent of the gangs and accounted for approximately 40 percent of gang membership countrywide.

*Trafficking in Persons.*—The country was a source and transit point for trafficking in persons. In addition there was internal trafficking in persons.

Although there is no comprehensive antitrafficking law, various provisions in penal, child exploitation, and immigration statutes criminalize trafficking and enable the government to prosecute traffickers. The law provides for sentences of between six and nine years' imprisonment. The penalty is increased if the traffickers are government or public employees, or if the victim suffers loss of liberty or is killed.

The government's General Directorate for Population and Migration was responsible for enforcing the country's immigration laws but had no arrest powers. Many of the government's antitrafficking measures were conducted in the context of combating the illegal movement of migrants. Corruption, insufficient governmental allocation of personnel and other resources, and administrative weaknesses among the police and court system undermined enforcement efforts. There were 13 prosecutors in Tegucigalpa, 5 in San Pedro de Sula, and 2 in La Ceiba that formed part of the Office of the Special Prosecutor for Children, along with 8 special child abuse investigators in Tegucigalpa, 4 of whom focused on sexual and commercial exploitation of minors. Some officials were investigated and dismissed for corruption.

On January 20, 3 of 10 members of an international human trafficking ring that lured women into commercial sexual exploitation abroad were arrested in the country. Another 7 members of the ring were arrested in the US, where 2 individuals pled guilty, one for harboring and the other for trafficking. The trial in the US was re-scheduled for 2006. At year's end the three defendants detained in the country were awaiting a preliminary hearing. There was also an outstanding warrant for the arrest of the individual who procured the women for the trafficking operation.

On May 28, police rescued four girls and arrested three individuals for trafficking girls into Guatemala. The investigation leading to the arrests occurred after parents filed a police report regarding their missing daughters. At the end of year the Public Ministry Special Prosecutor for Children prosecuting the case.

At year's end Maria Isabel Cruz Zamora, convicted in October 2004 of alien smuggling and trafficking in persons, remained a fugitive with an outstanding arrest warrant.

On February 23, a court sentenced 2 persons convicted of aggravated trafficking for sexual exploitation to 6 years' imprisonment, and 1 person of money laundering to 24 years' imprisonment; 2 elderly persons were released for insufficient evidence. The defendants were members of a family trafficking ring in Tocoa and had been arrested in 2003 for trafficking.

By year's end the Public Ministry estimated that there were 14 convictions and approximately 50 ongoing cases of commercial sexual exploitation pending convictions, including 8 cases scheduled for trial, 3 cases awaiting a hearing, and 7 cases under investigation for further consideration.

During the year the government cooperated with North Americans, Mexican, Guatemalan, and Belizean governments to identify and repatriate minors. The government, along with agencies of the Nicaraguan and Guatemalan governments and NGOs, met in August in Copan to discuss regional cooperation against trafficking and commercial sexual exploitation. The Office of the Special Prosecutor for Children worked with its Guatemalan counterpart to locate and repatriate children that were trafficking victims.

Women and children were trafficked into Guatemala and also internally, most often from rural to urban settings. The commercial sexual exploitation of children was a serious problem. As of October Casa Alianza estimated that there were approximately 10 thousand children who were victims of some form of commercial sexual exploitation. The Office of the Special Prosecutor for Children conducted 30 operations jointly with the police, the Honduran Institute for Children and the Family (IHNFA), judges, and Casa Alianza, to rescue victims and arrest and prosecute those responsible for these victims' exploitation.

Most trafficking victims were young women and girls, who were trafficked to Guatemala, Belize, El Salvador, Mexico, the United States, and Canada for sexual and labor exploitation. Traffickers were reportedly locals as well as Guatemalan, Mexican, and in some cases Chinese or Taiwanese nationals. In a majority of cases, traffickers posed as *coyotes* (alien smugglers), claiming to facilitate border crossings and

help immigrants enter other countries in Central America, Mexico or the US. In some cases victims were promised lucrative jobs but instead were forced into commercial sexual exploitation, drug trafficking, or debt bondage.

The government, in conjunction with UNICEF, conducted 10 public information campaigns against trafficking and commercial sexual exploitation, and raised awareness of children and women's rights and risks associated with illegal migration.

The government and Casa Alianza, along with other NGOs, held 17 training seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children. Through these seminars the Public Ministry trained a total of 740 justice officers.

The government did not provide assistance to foreign victims of trafficking and did not provide funding to NGOs that helped trafficking victims. IHNFA was responsible for dealing with repatriated minors upon their arrival in the country.

*Persons with Disabilities.*—The law does not require access to buildings for persons with disabilities, and there are no general statutory protections for persons with mental or physical disabilities except that it is illegal for an employer to discriminate against a worker based on disability. During the year there were no reports of discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The Public Ministry was responsible for protecting the rights of persons with disabilities.

*Indigenous People.*—Approximately 621 thousand persons, constituting 9 percent of the general population, were members of indigenous and other ethnic groups. These populations, including the Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahual, Islanders, and Garifunas, lived in 362 communities and generally had little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Most indigenous lands were owned communally, providing land use rights to individual members of the ethnic group. Indigenous land titles often were defined poorly in documents dating back to the mid-19th century. Lack of clear title fostered encroachment and appropriation conflicts with landless nonindigenous settlers and with powerful business elites and government entities interested in exploiting coastlines, forests, and other lands traditionally occupied or utilized by indigenous and other ethnic groups. Indigenous and nonindigenous communities criticized the government's alleged complicity in the exploitation of timber and other natural resources on these lands.

By year's end there were several protests by indigenous groups regarding land rights disputes and perceived government discrimination. On June 7 and September 15, the Consejo Nacional Indigena Maya Chorti, a Chorti indigenous rights group, seized the Mayan ruins of Copan and held demonstrations to force the Maduro administration to fulfill commitments made by the government in 1997 to purchase land and transfer legal title to the Chorti community. Although the then president Maduro publicly agreed to fulfill the government's promise, at year's end the Chorti community was awaiting the purchase and transfer of the disputed lands.

Garifuna leaders also continued to petition the government regarding their concerns about large-scale commercial development undertaken on coastal lands traditionally occupied and utilized by their communities. The government permitted tourism development by private local and foreign business interests on the disputed lands using 100-year leases designed to revert to the Garifuna after the expiration of that period of time. During the year Garifuna leaders reported harassment, threats, and assaults, including the suspicious shooting of one of their spokespersons (see section 1.c.). Many Garifuna rights activists continued to oppose the government's attempts to provide individual land titles to community members on lands traditionally held in common by the Garifuna people.

The government undertook minimal efforts to work with indigenous groups to address concerns regarding ownership and use of traditional lands.

The courts commonly denied legal recourse to indigenous groups and often favored nonindigenous parties of means and influence. Failure to obtain legal redress frequently led indigenous groups to attempt to regain land through invasions of private property, which gave the authorities occasion to retaliate forcefully.

Human rights organizations, including Amnesty International, continued to complain about alleged poor treatment, police beatings, and denial of adequate medical care for indigenous brothers Marcelino Miranda Mendoza and Leonardo Miranda Mendoza, members of the Civic Council of Indigenous and Popular Organizations of Honduras. Jailed in 2003, the brothers were later convicted and sentenced during that same year to 29 years in jail for the 2001 murder of Juan Reyes Gomez. In 2003 the Supreme Court of Justice overturned the sentence for Gomez's murder and

ordered the appeals court to reconsider the case. However, the two indigenous brothers continued to remain in jail, and there were no further developments in their case at year's end. On June 6, indigenous leader Feliciano Pineda was arrested in connection with the 2001 killing of Juan Reyes Gomez. In December Pineda was acquitted but remained in prison on other charges, including theft, damages to property, and home invasion allegedly connected with the killing (see section 1.a.).

*Other Societal Abuses and Discrimination.*—Job-related age discrimination was a serious problem. There were no discriminatory laws based on sexual orientation, but in practice social discrimination against persons based on sexual orientation was widespread. Representatives of the sexual diversity rights NGOs Violet Collective, the San Pedro Gay Community, Kukulcan, and the Transvestite Sex Workers Collective of San Pedro Sula asserted that their members regularly experienced abuses, beatings, killings (see section 1.a.), and other physical and verbal mistreatment from authorities. They also asserted that there was anti-gay discrimination by security forces and government agencies, and that employers used illegal discriminatory hiring practices. These groups also reported that due to intimidation, fear of reprisal, and police corruption, gay and lesbian victims of abuse were reluctant to file charges or proceed with prosecutions.

The NGO Red de Hombres Gay Positivos alleged that employers routinely ignored antidiscrimination employment laws and used testing supposedly for syphilis among employees and job applicants as a means to detect HIV status so as to weed out persons testing positive. The NGO also alleged that some Protestant churches fueled prejudice against HIV positive persons.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to form and join unions of their choice, and workers exercised this right in practice. Members of the armed forces and the police force are prohibited by law from forming labor unions. The law prohibits public service employees from presenting union-organizing petitions or participating in collective bargaining. According to July statistics from the Ministry of Labor, approximately 8 percent of the work force, excluding the agriculture sector, and approximately 13 percent of the 133 thousand maquiladora work force was unionized.

The law prohibits more than 2 trade unions to coexist at a single enterprise, requires 30 or more workers to constitute a trade union, prohibits foreign nationals from holding union offices, requires that union officials be employed in the economic activity of the business the union represents and restricts unions in agricultural enterprises with less than 10 employees.

A number of private firms continued to maintain solidarity associations that provided credit and other services to workers who were members of these associations. Representatives of organized labor groups criticized these associations, asserting that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions, and are employer-dominated.

Whereas the law prohibits retribution by employers for engaging in trade union activity, retribution was a common practice with employers threatening to close unionized companies, harassing, or dismissing workers seeking to unionize. Some foreign companies closed operations when notified that workers sought union representation.

The Ministry of Labor can reach administrative decisions on allegations of unfair dismissal and fine companies, but only a court can order reinstatement of workers. If the court orders an employer to reinstate workers fired for engaging in union activity, under the law, the company or employer is required to comply with the ruling. In practice, however, reinstatement of workers was a serious problem, and employers often failed to abide by court orders for reinstatement.

Although the law prohibits blacklisting, there was credible evidence that maquiladora employers used blacklisting of employees seeking to form unions. A number of maquiladora workers allegedly fired for union activity were hired for one or two weeks and then dismissed with no explanation. Maquiladora employees reported seeing computer records that included previous union membership in personnel records. Some employers informed previously unionized workers that they were unemployable because of their previous union activity.

The Ministry of Labor did not always provide effective protection to labor organizers due to corruption and unethical behavior of inspectors, including the selling of names of employee union organizers to company management before government recognition of the union.

More than 30 maquiladora workers asserted that they were given an ultimatum by management and fired on February 23 for trying to form a union at their workplace at the Olga de Villanueva company. According to information from the Min-

istry of Labor, on June 16, the workers were relocated by management to Hamlet Manufacturing company. The employees filed a complaint with the United Confederation of Worker of Honduras as well as with the Ministry of Labor. At year's end the case was under investigation by the Ministry of Labor.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and to bargain collectively, and the government protected this right in practice. Although the law requires that an employer begin collective bargaining once workers establish a union, employers often refused to engage in bargaining.

The law provides for the right to strike, and workers exercised this right in practice. The law, however, prohibits strikes in a wide range of economic activities deemed essential services and any others that in the government's opinion restrict individual rights to security, health, education, economic or social life. The identified essential services include , air and water transportation, electrical energy production, telecommunications, hospitals and clinics, refuse collection and cleaning services, production of primary necessities affecting public services, social and charitable associations, animal and plant hygiene and scientific investigation of illnesses, as well as petroleum production, refining, transport, and distribution.

The ILO criticized the law's denial of the right to strike to workers in the petroleum sector and to all government workers, other than employees of state-owned enterprises. At times civil servants engaged in illegal work stoppages without experiencing reprisals. In such cases, however, the Ministry of Labor has the power to declare the protest illegal at the request of the employer or public service sector management and dismiss the protesting workers. The following legal restrictions applied to strikes: a prohibition on labor federations and confederations from calling strikes, and a requirement that a two-thirds majority of the votes of the total membership of the trade union call a strike, rather than a simple majority.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry, with the exception that that the law provides additional restrictions on strikes in EPZs. There were 44 free zones established in the country and 18 industrial parks operating as EPZs. An additional 26 companies had their own free zones, outside of the industrial parks. In the absence of unions and collective bargaining, several companies in the EPZs instituted solidarity associations that, to some extent, functioned as company unions for the purposes of setting wages and negotiating working conditions. Other EPZ companies used the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law generally prohibits forced or compulsory labor, including by children, it permits compulsory labor for convicted criminals. Additionally, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who comprised approximately 65 percent of that sector's workforce.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law regulates child labor and provides that minors under age 16 or students ages 16 and older cannot work, unless authorities determine that the work is indispensable for the family's income and will not conflict with schooling. The constitution establishes the maximum hours worked for children under 17 years as 6 hours daily and 30 hours weekly. By law, parents or a legal guardian can request special permission from the labor ministry to allow children between the ages of 14 and 15 to work, as long as the ministry performs a home study to ensure that the child demonstrates economic necessity to work and that the child will not work outside of the country or in hazardous conditions, including offshore fishing. In practice, the labor ministry conducted only a limited number of home studies.

The law prohibits night work and overtime for minors under age 16, and requires that employers in areas with more than 20 school-aged children working at their business facility provide a location for a school. In practice, the vast majority of children worked without ministry permits.

The Ministry of Labor did not enforce effectively child labor laws outside the maquiladora sector, and there were frequent violations of the child labor laws in family farming, agricultural export, including the melon, coffee, and sugarcane industries, and in small-scale services and commerce. Many children worked out of economic necessity alongside other family members.

A 2004 survey by the National Institute of Statistics (INE) managed by the ILO's International Program on the Elimination of Child Labor (IPEC) determined that approximately 359,752 children, constituting 14 percent of children between the ages of 5 and 18, worked either part-time or full-time. Many boys between the ages of 13 and 18 worked as lobster divers with little safety or health protection. Chil-

dren who worked on melon and sugarcane farms were exposed to pesticides and long hours. Although garbage disposal sites were legally off limits to children, there were large numbers of minors working at these locations.

*Casa Alianza* conducted a study in 20 cities of the country and found that 10 thousand children were victims of commercial sexual exploitation crimes or trafficking in persons (see section 5).

There were isolated cases of children under the legal working age working in the maquiladora sector. Younger children sometimes obtained work permits by fraud or purchased forged permits.

The Ministry of Labor continued a campaign to increase industry awareness on the worst forms of child labor. The IPEC program identified the worst forms of child labor in the country as commercial sexual exploitation particularly in tourist areas along the North Coast, fireworks production, offshore diving from boats for commercial lobster fishing, limestone quarrying and lime mining, garbage dump picking, melon and other commercial agriculture production involving handling of pesticides, wood-cutting in saw mills and construction activities.

By year's end the government had undertaken a number of social and educational programs to reach at-risk children, including a school grant program of the Ministry of Education to provide money for school supplies for very poor families, and an alternative schooling program using radio and long-distance learning for children in distant rural areas with few schools. Government measures had minimal impact on diminishing child labor in light of extreme poverty, famine conditions in rural areas, and a lack of jobs for school graduates.

*e. Acceptable Conditions of Work.*—The daily minimum wage scale, which was updated during the year, is broken down by sector and size of business: small (1–15 workers) and large (16 or more workers). The scale ranges from \$3.24 (61.3 lempiras) for workers in small agriculture to \$5.17 (97.8 lempiras) for workers in financial and insurance companies and workers in export-oriented businesses, including maquiladoras and commercial agriculture, such as tobacco, coffee, bananas, and seafood production. Workers in areas such as construction, services, mining, transportation, communication, etc., had minimum wages between these two rates. The minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor and the Minimum Wage Commission were responsible for enforcing the minimum wage.

The law prescribes a maximum a 44-hour workweek and at least one 24-hour rest period for every 6 days of work. The law requires overtime payment for hours in excess of the standard, and there are prohibitions on excessive compulsory overtime. Employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoyed equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor was cumbersome.

The Ministry of Labor was responsible for enforcing national occupational health and safety laws, but did not do so consistently or effectively. Worker safety standards were enforced poorly, particularly in the construction industry and in agriculture production activities. There were complaints that foreign factory managers in EPZs and other private industrial facilities failed to comply with occupational health and safety regulations (see section 6.b.). Workers in pineapple production and other commercial agriculture enterprises alleged blacklisting by employers if they made complaints to the authorities about working conditions. During the year the Ministry of Labor engaged in some training of labor inspectors to integrate and unify inspection capacity. The ministry also undertook with the National Autonomous University of Honduras a technical assistance workshop diploma course on workplace risk prevention that trained 24 inspectors.

The NGO Association of Crippled Mosquito Divers filed a case with the Inter-American Commission on Human Rights to pressure the government to adhere to a July 2004 agreement with the association mandating that employers create better working conditions for divers, including use of safe diving equipment to minimize the high incidence of serious disabilities and death suffered by divers.

The law does not provide workers with the right to leave a dangerous work situation without jeopardy to continued employment.

## JAMAICA

Jamaica is a constitutional parliamentary democracy with a population of approximately 2.7 million. In the generally free and fair 2002 elections, Prime Minister P.J.

Patterson's People's National Party (PNP) won 34 of the 60 seats in the House of Representatives. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were serious problems in some areas:

- unlawful killings committed by members of the security forces
- mob violence against and vigilante killings of those suspected of breaking the law
- abuse of detainees and prisoners by police and prison guards
- poor prison and jail conditions
- continued impunity for police who commit crimes
- an overburdened judicial system and frequent lengthy delays in trials
- violence and discrimination against women
- trafficking in persons
- violence against suspected or known homosexuals

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, security forces committed some unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects, which resulted in 180 deaths (including 13 police officers) compared with 119 deaths (including 11 police officers) in 2004. While allegations of “police murder” remained frequent, the validity of some allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 62 per 100 thousand persons, the highest in its history. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols.

On June 19, Amnesty International (AI) reported that no Jamaica Constabulary Force (JCF) officer had been convicted of murder in the last six years, and that police are “immune from effective prosecution and are allowed to carry out killings with impunity.”

On August 19, in Kingston, police killed 16-year-old Jeff Smellie who was reportedly returning from visiting his grandmother in the hospital. Police reported that the youth was involved in a shootout.

On December 30, police reportedly shot two men in Portmore, St. Catherine. Police stated there was a shootout that resulted in their deaths. Neighbors and family alleged the two men were killed in their sleep, dragged out of the house, and put in police jeeps. The Bureau of Special Investigations (BSI) was investigating the incident.

Following a BSI investigation into the March 2004 police killing of three men in Burnt Savannah, Westmoreland, the case was transferred to the Department of Public Prosecutions (DPP). At year's end the case was before the coroner's court to determine whether criminal charges should be brought against any members of the JCF.

Similarly, the BSI concluded its investigation into the September 2004 killing by Jamaica Defense Force (JDF) soldiers of Sandra Sewell and Gayon Alcott in August Town, St. Andrew, and transferred the case to the DPP. At year's end the coroner's court was to decide whether criminal charges should be brought against any members of the JDF.

The BSI also concluded its investigation into the December 2004 police killing of 15-year-old Donovan Hayles and 7-year-old Shakeira Thompson in Old Braeton, St. Catherine, and sent the case to the DPP. At year's end the case was with the DPP, and no formal charges had been made.

Six members of the JCF's disbanded Crime Management Unit, including Senior Superintendent Reneto Adams, were charged in connection with the 2003 killing of four people at a home in Crawle, Clarendon. On December 12, the judge found that the prosecution failed to make a prima facie case against three of the officers and ordered the jury to free them. On December 20, the jury found the remaining three officers not guilty. At year's end it was anticipated that the officers would be back at their jobs early in 2006.

Following a BSI investigation, authorities brought charges of killing and intent to injure against five police officers for the 2003 police killing of two elderly men in the community of Flankers, St. James. The government accepted liability and

agreed to compensate the family of one of the victims in the amount of approximately \$80 thousand (J\$4.75 million). The trial was expected to begin in 2006.

In 1999 Michael Gayle died two days after being injured by the security forces. Authorities admitted that he was killed unlawfully and issued a public apology in March 2004. The government also paid the family approximately \$48 thousand (J\$2,886,265) in compensation for Gayle's death. On October 24, the Inter-American Commission on Human Rights published its report on the case, which found that the government's remedy and investigation into the case were insufficient. This caused renewed public debate about the DPP's finding that there were no officers who could be charged in connection with the case.

On February 11, a trial judge acquitted the six police officers charged in the 2001 killing of seven youths in Braeton, St. Catherine. The court freed the officers after it determined that the prosecution had failed to make a *prima facie* case against the officers.

In the case of the 2000 police killing of Janice Allen, her family appealed the dismissal of the case against the responsible police officer and was awaiting a court date at year's end.

During the year at least three detainees died while in police custody. In addition a March 31 escape attempt at Kingston's maximum security prison resulted in the deaths of three inmates. There was no evidence of negligence.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 20 vigilante killings during the year, with varying motives. On April 4, a mob in the parish of Trelawny killed two men accused of stealing yams. Human rights advocates contended that police did not consider such killings a priority and expressed concern that the perpetrators rarely were charged.

In November unknown assailants kidnapped and killed Lenford "Steve" Harvey, a homosexual man who operated Jamaican AIDS Support for Life (see section 5).

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

In December 2004 police allegedly abducted two men in Kingston. Witnesses reported that two members of the JCF Organized Crime Unit handcuffed and took two men into custody. At year's end, authorities had charged one police officer with false imprisonment, but his trial was postponed. The victims had not been found.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, reports of physical abuse of prisoners by guards continued, despite efforts by the government to remove abusive guards and improve procedures. On August 9, the Department of Correctional Services announced that it had discharged 16 correctional officers for misconduct. At year's end the department, in conjunction with the police, was investigating alleged criminal activities of the fired correctional officers, including trafficking of contraband, abuse of inmates, missing ammunition, and assisting with prison escapes.

A former prison doctor for the St. Catherine Adult Correction Center in Spanish Town publicly alleged at a St. Catherine parish council meeting and in a letter to the commissioner of corrections that mass rapes, particularly of mentally ill inmates and inmates serving time for nonviolent offenses, occurred at the prison during the year. The doctor also alleged that prison guards and some inmates were involved in "renting out" the victims for sex with other inmates. The Ministry of National Security agreed to investigate the allegations.

On February 17, the Supreme Court ordered the government to pay \$50 thousand (J\$3 million) in damages for the "oppressive and unconstitutional" conduct by a policeman who shot and injured 36-year-old electrician Esrick Morgan in 1998.

On March 9, a Supreme Court judge, in assessing damages against the government, described the conduct of a policeman who gave a prisoner a knife to wound another while in custody as "outrageous." The injured man was awarded \$20 thousand (J\$1.2 million) with interest in damages.

There were no developments in the case of six police officers accused of raping a prostitute in Negril, Westmoreland in March 2004.

*Prison and Detention Center Conditions.*—Prison conditions remained poor, primarily due to overcrowding and poor sanitary conditions. The Department of Correctional Services took measures during the year to improve catering services and medical care for inmates. A March 31 escape attempt at Kingston's maximum security prison was foiled but resulted in the deaths of three inmates and one prison guard. The media labeled the event a riot.

Men and women were incarcerated in separate facilities under similar conditions, except that women's prisons were generally not overcrowded.

Although the law prohibits the incarceration of children in adult prisons, some juveniles were held with adults, particularly when juvenile facilities were filled to ca-



capacity. The majority of pretrial detainees were held in police custody, either in police stations or in remand centers, generally separate from convicted prisoners.

In general the government allowed private groups, voluntary and religious organizations, local and international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law permits the arrest of persons “reasonably suspected” of having committed a crime. While the law prohibits arbitrary arrest, security forces performed “cordon and search” operations, during which they detained persons and took them into custody for processing. Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants.

*Role of the Police and Security Apparatus.*—The JCF had primary responsibility for internal security and was assisted by the Island Special Constabulary Force. The JDF was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest (with the exception of the JDF Coast Guard in the maritime domain) unless so ordered by the prime minister. The Jamaica Regiment (JDF infantry forces) was detached as part of a joint internal security operation to assist the JCF in patrolling certain communities. The prime minister occasionally authorized the JDF to cordon and search with the JCF. The Ministry of National Security oversaw the JCF and the JDF.

The JCF is headed by a commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Faced with a rapidly increasing rate of killings, the JCF generally was not effective. The country experienced the highest level of violent crime in its history, and the perception of corruption and impunity within the force was a serious problem that contributed to a lack of public confidence in the institution. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms.

On March 1, Mark Shields joined the JCF as deputy commissioner of police in charge of crime. Shields, a 29-year veteran of the London Metropolitan Police, was the first foreign police officer to join the JCF. Shields was hired for a period of four years with primary responsibility to reduce the homicide rate.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF’s BSI, which employed 21 investigators, specifically addresses police shootings. The BSI completed investigations of 521 shooting incidents during the year and sent them to the DPP. The DPP ruled on 333 cases and sent 21 to criminal courts. No officer was found criminally liable during the year. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority, which oversaw investigations by the other two bodies and could initiate its own investigations.

The JCF continued an initiative of community policing to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. During the year JCF officers were assigned to targeted schools as school resource officers to stem school violence and serve as liaison between the students, faculty, parents, and the police. The police academy includes training for policemen on citizens’ rights and human rights. In September the government completed distribution of human rights materials to 23 primary schools across the country; the program was developed jointly by the government and the Independent Jamaica Council for Human Rights.

Human rights advocates contended that police did not consider killings by vigilante mobs a priority and expressed concern that the perpetrators rarely were charged (see section 1.a).

*Arrest and Detention.*—The law requires detained suspects to be charged or released within 24 hours of arrest. The law also requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee, upon detention; however, the authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them. There was a functioning bail system, but the police publicly criticized the courts for being too lenient in granting bail to serious criminals. The judiciary responded that it was the responsibility of parliament to toughen laws on bail. The state provides indigent detainees access to counsel through the legal aid program, and detainees were provided with prompt access to family members.

There were reports of arbitrary arrest during the year, and the authorities continued their “cordon and search” policy in neighborhoods where it was believed certain

suspects may be present. During these operations, conducted by the JCF sometimes in conjunction with the JDF, authorities detained groups of people and took them to a police station or other safe area where they were processed and held until it could be determined whether they were the suspect the police were looking for. By law, unless special permission is granted by a Justice of the Peace or a Resident Magistrate, persons must be released within 24 hours if they have not been charged with a crime.

There were no reports of political detainees.

Although the law requires police to present a detainee in court within a reasonable time period, in practice authorities continued to detain suspects for lengthy periods (often up to two or three years), which the government attributed to an overburdened court system (see section 1.e.). Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system was overburdened and operated with inadequate resources.

The judiciary's lack of sufficient staff and resources hindered due process, and the BSI also had a large backlog. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. A night court had some success in reducing the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The resident magistrate's courts also used alternative dispute resolution in limited cases.

There was a general lack of confidence in the police's witness protection program, which led to the dismissal of a number of cases involving killings. In a culture where it was widely believed that "informers will die," some criminal trials were dismissed because witnesses failed to come forward as a result of threats and intimidation. Some of those who came forward qualified for the witness protection program, but many either refused protection or violated the conditions of the program.

The court system consists of justices of the peace at the lower end. Resident magistrate's courts handle civil and criminal cases, while the Supreme Court has unlimited jurisdiction in civil and criminal matters. Defendants have the right to appeal a conviction in any of the three trial courts to the court of appeal, which is the highest court in the country. The Privy Council in the United Kingdom is the final court of appeal.

*Trial Procedures.*—Most trials are public and use juries. Defendants are presumed innocent, have the right to counsel, and have the right to confront witnesses against them. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The public defender may bring cases for persons who have had their constitutional rights violated. Although the Public Defender's Office contracted private attorneys to represent clients, funds were insufficient to meet the demand, and such attorneys sometimes requested payment from clients.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the constitution prohibits such actions, the revised Constabulary Force Act gives security personnel broad powers of search and seizure. This act allows search without a warrant of a person on board or disembarking from a ship or boat, if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police. In May 2004 businessman and political activist Paul Burke made public a letter that he addressed to the police commissioner and chief justice arguing that the judicial authorization to tap his phones was an attempt by his enemies to smear him for political reasons. There was no public government reaction to his letter.

## Section 2. Respect for Civil Liberties, Including:

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet.

The independent media were active and expressed a wide variety of views without restriction. However, some local media professionals expressed concern that the country's libel law limited their freedom of expression. Specifically, news outlets reported the need to self-censor investigative reports because of the potential for courts to award high damages in cases of defamation.

On June 22, the attorney general threatened legal action against an AI official for comments the researcher made about an ongoing trial. The attorney general ar-

gued that the comments, made by e-mail to a news reporter, constituted contempt of court. The government had not pursued any legal action by year's end.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or were due to the group's illegal use of marijuana as part of Rastafarian religious practice.

There was a small practicing Jewish congregation in the country. There were no reports of societal abuses or discrimination, including anti-Semitic acts.

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

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

The law prohibits forced exile, and there were no reports that it occurred.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and handled refugee or asylum cases administratively. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The authorities granted political asylum to 17 Haitian nationals during the year.

The government provided temporary protection to 402 individuals who did not qualify as refugees under the UN treaties. Over 135 individuals were voluntarily repatriated, and 434 individuals were involuntarily repatriated. The government, with the assistance of UNHCR, provided nine Haitians with temporary protection and resettlement. Immigration officers interviewed all Haitians who arrived during the year and determined that none qualified for refugee status. All Haitians who arrived during the year were repatriated, except one family that was allowed to remain to seek medical care. Of the Haitians denied refugee status in 2004, 28 appeals were pending, and trials were being scheduled at year's end.

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

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

*Elections and Political Participation.*—All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties often faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote.

In 2002 P.J. Patterson's PNP won 34 of the 60 seats in the popularly elected House of Representatives. The PNP holds 13 of the 21 seats in the appointed Senate.

There were 7 women in the 60-seat House of Representatives, and 5 women in the 21-seat Senate. Three of the 17 cabinet members were women.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption in the executive and legislative branches of government, as well as in the ranks of the JCF.

On October 30, security forces in South Central St. Catherine killed Donovan "Bulbie" Bennett, the reputed leader of the "Clansman" gang and one of the JCF's most wanted men for more than 10 years. Following the incident, police accused PNP Member of Parliament (MP) Sharon Hay-Webster and her party of being "major supporters" of Bennett, who had been wanted in connection with nearly 100 killings, extortion, and other serious crimes in Spanish Town. Police Superintendent Kenneth Wade said that PNP support had helped fuel the criminal gang for years. The PNP denied the allegations, but the incident raised further questions about government involvement with known criminals.

In December 2004 the Senate noted the omission of party financing regulations as a gap in the 2003 Corruption Prevention Act. On December 9, parliament amended that act to close reporting loopholes for state employees. However, reports indicated that over five thousand civil servants failed to file declarations with the commission, or filed late or incomplete declarations.

The 2004 investigation into JLP MP Olivia Grange's relationship with Spanish Town gang leader Oliver Smith ceased, and no developments were expected. However, on October 6, Olivia Grange was involved in another shooting while riding in a car with Andrew Hope, who replaced Oliver Smith as the new leader of the gang, when a lone gunman fired shots at her vehicle and the motorcycles accompanying her. One motorcycle rider was killed.

The Access to Information Act (ATI), signed in 2002, went into effect on January 5. This law provides public access to information held by government ministries and agencies. However, there were reports that some legitimate requests for information were not granted, and a Joint Select Committee of Parliament undertook a review of the ATI to consider its effectiveness from the standpoint of end-users as well as that of the public officials providing service under the act.

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

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

The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The nongovernmental organization (NGO) Jamaicans for Justice (JFJ) focused on the issues of police impunity, extrajudicial killings, and excessive use of force by the police and wrote a weekly newspaper column. JFJ reported that undercover police regularly attended its meetings. Some members of the police and the DPP were outspoken in their criticism of the organization. The group sits on the board of the Ministry of Justice's Justice Consultative Committee; however, that committee reportedly has not met since April 2004. JFJ resigned its seat on the Ministry of National Security's committee to oversee the recommendations of the National Committee on Crime and Violence, since the group did not feel the work of that committee was moving forward.

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office contracted private attorneys to bring suits against the government on behalf of private citizens. The public defender continued working on an overall antidiscrimination bill, which would create an Antidiscrimination Commission to make decisions about grievances. The public defender won compensation for at least four of the families of victims killed during the 2001 shootout in Tivoli Gardens, West Kingston, between members of the community, the JCF, and the JDF. Lawsuits filed on behalf of all the victims killed during the shooting remained pending at year's end.

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

The law prohibits discrimination based on race, gender, place of origin, political opinions, color, or creed. The government generally enforced these prohibitions in practice, although there continued to be widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities (see section 3).

*Women.*—The law provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to approximately \$166 (J\$10 thousand) and six months' imprisonment. Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. There was a general reluctance by the police to become involved in domestic issues, which may not be pursued vigorously when reported. The government's Bureau of Women's Affairs operated crisis hot lines and shelters and managed a public education campaign to raise the profile of domestic violence.

Rape, including spousal rape, was illegal and carried a penalty of up to 25 years' imprisonment with hard labor. During the year, 735 incidents of rape were reported (not including statutory rape), a decrease of 15 percent, but NGOs stressed that the vast majority of rapes were not reported. Moreover, these statistics may be misleading because often a significant decrease may be due to decreased reporting indicative of a lack of confidence in the police. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes.

Although the law prohibits prostitution, it was widespread, particularly in tourist areas.

Several women's groups, including Women's Media Watch, applauded the December ratification by parliament of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women.

There is no legislation that addresses sexual harassment, and it was a problem. There were reports of sexual harassment of women by the police, but some observers believed that women often did not report such incidents because there was no legal remedy. Parliament had not yet passed legislation relating to sexual harassment called for by the convention on violence against women.

Although the law accords women full legal equality including equal pay for equal work, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women.

There was an active community of women's rights groups, including Women's Media Watch, the Women's Political Caucus, the St. Peter Claver Women's Housing Cooperative, the Women's Construction Collective, the Sistren Theatre Collective, Woman Inc., and the Centre for Gender and Development Studies at the University of the West Indies. Among the major concerns of these groups was the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

*Children.*—The government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the government's programs for children.

Public primary education was free, universal, and compulsory for students between the ages of 6 and 11, and the Ministry of Education reported that 99 percent of children in that age group were enrolled in school. However, economic circumstances obliged thousands of children to stay home to help with housework and avoid school fees. As a result, attendance rates at primary schools averaged 78 percent, although some rural areas reported attendance as low as 50 percent. More than 70 percent of children between the ages of 12 and 16 had access to secondary school, and the UN Children's Fund reported that most children completed secondary education. A National Task Force on Education continued its review of the educational system and at year's end was working on suggested methods for improvement.

Medical care was widely available, and boys and girls enjoyed equal access.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, particularly in inner cities. NGOs reported that inner city gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 333 cases of carnal abuse reported, a 19 percent decrease over the same period in 2004. The government expressed concern about child abuse and acknowledged that incidents were underreported. The Child Development Agency (CDA) held training sessions to familiarize police officers with the rights of children and to prepare them to enforce the Child Care and Protection Act.

Child prostitution and trafficking for the purposes of sexual exploitation were problems (see section 5, Trafficking).

*Trafficking in Persons.*—Although the law does not prohibit specifically trafficking in adults, there were laws against assault and fraud, and other laws established various immigration and customs regulations that could be used against this practice. Trafficking in children was a problem, and there were reports that persons were trafficked primarily within the country.

The Child Care and Protection Act passed in 2004 specifically prohibits the sale or trafficking of minors and provides that violators receive the maximum penalty under the law. This law subjects convicted traffickers to a fine or imprisonment with hard labor for a term not exceeding 10 years, or both. It also provides that no person under the age of 18 years may be employed in a night club. Although authorities raided some night clubs, police tended to arrest victims of trafficking rather than owners of the clubs. There were few if any convictions under this law. Authorities reported that very few children had been found to be trafficking victims.

The International Labor Organization (ILO) estimated that several hundred minors were involved in the country's sex trade.

The country was also a transit country for illegal migrants moving to the United States and Canada, some of whom were believed to be trafficking victims. Groups at a special risk for trafficking included rural migrants who sought work in cities and tourist areas, usually in the sex industry. Corruption among immigration offi-

cials in facilitating the unauthorized international movement of persons was a concern.

The CDA managed facilities for at-risk children, and the government provided funding to NGOs that worked to reintegrate child laborers who were victims of trafficking.

On August 30, the government launched a year-long educational campaign to educate its citizens regarding the dangers of trafficking in persons. The government formed a National Trafficking Task Force and created a specialized police antitrafficking unit within the Organized Crime Division of the JCF. A main focus of this unit was to compile data on trafficking investigations and related legal proceedings. Two officers staffed the unit and both received training from the International Organization for Migration. Three major crime hot lines were available to receive reports of trafficking 24 hours per day.

*Persons with Disabilities.*—There were no laws prohibiting discrimination against persons with disabilities, nor any laws mandating accessibility for persons with disabilities, and such persons encountered discrimination in employment and denial of access to schools. Health care and other state services were reported to be universally available. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities, but there was no government agency specifically charged with assisting persons with disabilities.

*Other Societal Abuses and Discrimination.*—The Offenses against the Person Act prohibits “acts of gross indecency” (generally interpreted as any kind of physical intimacy) between men, in public or in private, which are punishable by 10 years in prison. Although Prime Minister Patterson stated that the country would not be pressured to change its antihomosexual laws, in October a parliamentary committee proposed a combined national public debate on the legality of homosexuality and prostitution as matters of public health.

The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital and prison staff, and targeted shootings of homosexuals. Police often did not investigate such incidents. J-FLAG documented a number of instances of homophobic violence during the year, some of which resulted in charges brought to court, while others were never reported to authorities by reason of fear.

On November 30, Lenford “Steve” Harvey, who operated Jamaican AIDS Support for Life, was killed on the eve of World AIDS Day. At least four men broke into Harvey’s home, stole items, and kidnapped Harvey. Two of Harvey’s associates who were in the home at the time reported that they were asked if they were gay; they answered negatively but Harvey did not reply, and the intruders took him from his home. Several hours later he was found shot to death in a rural area some miles from his home. At year’s end the police had a number of suspects under investigation. A senior JCF official familiar with the Harvey killing reported that the suspects were also linked to other similar robbery-murders whose victims were apparently heterosexual, and he cautioned against categorizing Harvey’s death as a hate crime pending further evidence. The JCF appointed political ombudsman Bishop Herro Blair as an independent civilian monitor to oversee the investigation.

In December a homophobic mob allegedly chased homosexual Nokia Cowen off a pier at Kingston Harbor where he drowned. At year’s end the police had not identified any suspects in the killing.

In June 2004 Brian Williamson, a prominent homosexual rights activist and founding member of J-FLAG, was found stabbed to death at his home in Kingston. Human rights groups believed that the brutality of Williamson’s death indicated a hate crime, but the JCF maintained that the crime was a robbery. A suspect remained in custody at year’s end awaiting trial.

Also in June 2004 a group of armed men, reportedly including famous dancehall artist Mark Myrie, a.k.a. Buju Banton, forced their way into a house in Kingston and beat six men while shouting homophobic insults. Banton plead not guilty to the charges on September 21, and was released on less than \$1 thousand (J\$50 thousand) bail. The court extended Myrie’s bail on September 30 and again on October 19, when the court relaxed its conditions, requiring that he report to his local police station once per week.

Male inmates deemed by prison wardens to be homosexual are held in a separate facility for their protection. The method used for determining their sexual orientation is subjective and not regulated by the prison system, although inmates were said to admit their homosexuality for their own safety. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Homosexual men were hesitant to report incidents against them because of fear for their physical wellbeing. Human rights NGOs and government entities agreed that brutality against homosexuals, both by police and private citizens, was widespread in the community.

No laws protected persons living with HIV/AIDS from discrimination. Human rights NGOs reported severe stigma and discrimination against this group. Although health care facilities were prepared to handle patients with HIV/AIDS, health care workers often neglected such patients.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form or join a trade union, and unions functioned freely and independently of the government. Approximately 20 percent of the work force of 1.2 million was unionized. Some union workers charged that private sector employers laid them off and then rehired them as contractors with reduced pay and benefits; a practice that was legal as long as workers received severance pay.

*b. The Right to Organize and Bargain Collectively.*—The law permits unions to conduct their activities without interference, and the government protected this right in practice. An independent Industrial Disputes Tribunal (IDT) hears cases when management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO Committee of Experts (COE) considered that, where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, the union should be able to negotiate at least on behalf of its own members. The COE requested the government to take necessary measures to amend this legislation. The government contended that this would unduly lengthen negotiations.

The law neither authorizes nor prohibits the right to strike, and strikes did occur: of 129 disputes reported to the Ministry of Labor, 16 resulted in strikes. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs, although there were no reports of any workers losing their jobs over a strike action during the year. Workers in 10 broad categories of “essential services” are prohibited from striking, a provision the ILO repeatedly criticized as overly broad.

Domestic labor laws applied equally to the “free zones” (export processing zones), but there were no unionized companies in any of the 3 publicly owned zones, which employed approximately 134 workers. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, asserting that there was an unwritten agreement among them to prevent free zone workers from participating in trade unions. Nonetheless, efforts to organize plants within the zones continued. Company-controlled “workers’ councils” handled grievance resolution at most free zone companies, but they did not negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and, in practice it performed them at 6- to 9-month intervals.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not specifically prohibit forced or compulsory labor, including by children, but other than child prostitution, there were no reports that such practices occurred (see section 5).

The ILO Committee of Experts’ annual report reiterated its recommendation that the government amend prison rules so as to ensure that no prisoners may work for private individuals or companies except under conditions of a freely accepted employment relationship, which would bring the rules into conformity with ILO Convention 29 on Forced Labor. The Ministry of Labor stated that prisoners do not work privately unless they have approval from the commissioner, and that prisoners who work privately freely accept the employment and receive normal wages.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Child Care and Protection Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the CDA is charged with finding places of safety for children.

However, according to CDA officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 peddled goods and services or begged on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (see section 5).

*e. Acceptable Conditions of Work.*—The government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. During the year the minimum wage was changed to \$40 (J\$2,400) per week and \$1.50 (J\$90) per hour for private security guards. The minimum wage did not provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry. The Ministry of Labor administered and enforced the minimum wage.

The law provides for a standard 40-hour workweek and mandates at least one day of rest per week. Work in excess of 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely, except by some security guard companies. The law does not prohibit excessive compulsory overtime, and some employees, including security guards, regularly were required to work 12-hour shifts without overtime compensation. There were differing practices among security guard companies, but workers were generally not paid for overtime unless they worked for over 12 hours.

The Ministry of Labor's Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Insufficient staffing in the Ministries of Labor, Finance, National Security, and the public service contributed to the difficulties in enforcing workplace regulations. At year's end the Industrial Safety Division had 16 officers, who conducted 2,344 planned inspections, 282 special inspections, and 77 accident investigations. Violators were warned and given a time period in which to correct the violation. If the violation was not corrected within that time, the violator was taken to court. Authorities brought 10 cases to court during the year.

Industrial accident rates remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

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## MEXICO

Mexico, with a population 106 million, is a federal republic composed of 31 states and a federal district, with an elected president and bicameral legislature. In 2000 voters elected President Vicente Fox Quesada of the National Action Party to a 6-year term in generally free and fair multiparty elections. While civilian authorities generally maintained effective control of the security forces, elements of the security forces frequently acted independently of government authority.

The government generally respected and promoted human rights at the national level; however, violations persisted at the state and local level. The government investigated, prosecuted, and sentenced several public officials and members of security forces involved in criminal acts; however, impunity and corruption remained a problem. Local police released suspects who claimed to have been tortured as part of investigations, and authorities investigated complaints of torture, but authorities rarely punished officials for torture. There was a marked increase during the year in narcotics trafficking-related violence, especially in the northern border region. Violence against women continued to be a problem nationwide, particularly in Ciudad Juarez and the surrounding area. Government efforts to improve respect for human rights were offset by a deeply entrenched culture of impunity and corruption. The following human rights problems were reported:

- unlawful killings by security forces
- vigilante killings
- kidnappings, including by police
- torture, particularly to force confessions
- poor, overcrowded, sometimes life-threatening prison conditions
- arbitrary arrest and detention
- corruption, inefficiency, and lack of transparency in the judicial system
- statements coerced through torture permitted as evidence in trials
- criminal intimidation of journalists, leading to self-censorship



- corruption at all levels of government
- domestic violence against women often perpetrated with impunity
- criminal violence, including killings, against women
- trafficking in persons, allegedly with official involvement
- social and economic discrimination against indigenous people
- child labor

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, security forces acting both within and outside the line of duty killed numerous persons during the year

Police killed several persons during apprehension or in custody. In May Federal Preventive Police (PFP) officers shot and killed three university students in Reynosa, Tamaulipas, during an apprehension that turned out to be a case of mistaken identity. The Tamaulipas governor called it an act of negligence and an abuse of authority; an investigation was pending at year's end.

In August American citizen Pauline Baeza died while in custody of local police in Ensenada, Baja California. Baeza was dropped on her head as three officers, two holding her by the legs and the other by the middle chain of her handcuffs, carried her into the police facility. Police put Baeza in a holding cell alone without calling for medical attention, and she died a short time later. On September 19, a state penal court issued arrest warrants for negligent homicide, abuse of authority, and aiding and abetting a crime for five officers involved. The cases remained pending at year's end.

There were numerous reports of executions carried out by rival drug gangs, whose members allegedly included both active and former federal, state, and municipal security forces. The government increased its military and law enforcement presence in the northern border area as part of "Operation Secure Mexico" in response to deadly attacks against government officials and general lawlessness (see section 1.d.). More than 1,200 persons were killed during the year in drug-related violence throughout the country, but particularly in the northern border area as well as the states of Michoacan and Sinaloa. In June unknown assailants firing assault rifles killed Alejandro Dominguez six hours after he was sworn in as Nuevo Laredo's police chief.

There were no developments, and none were expected, in the following cases of killings in 2004: in January of Socrates Tolentino Gonzales Genaro, in May of Manuel Zarate Villaruel, in July of Serafin Garcia, in August of Maximiano Cristobol Lorenzo, in September of Guadalupe Avila Salinas, and of indigenous leaders in Chiapas and Guerrero. There were no developments in the 2003 killing of Abelino Encino Guzman and the 2002 massacre of peasant farmers near Agua Fria.

In July Secretary of Government Carlos Abascal agreed to review the cases of 71 persons detained for the 1997 killing of 45 Tzotzil Indians in Acteal, Chiapas. In a December 22 press conference, Abascal stated that the Acteal investigation and case reviews were ongoing. Human rights groups complained that impunity continued eight years after the incident. According to the Fray Bartolome de las Casas Center for Human Rights, the criminal cases against 80 of the 87 persons arrested were still in the judicial process, and there were 27 arrest warrants outstanding at year's end.

There were instances of vigilante killings. On June 1, a guerrilla group claimed responsibility for killing former Guerrero secretary of government Jose Ruben Robles for his alleged role in the 1995 massacre of 17 indigenous farmers in Aguas Blancas, Guerrero.

On November 23, President Fox's spokesman Ruben Aguilar reported that 32 persons faced indictment and 10 others were being sought in connection with the November 2004 vigilante attack on 3 PFP agents in the Tlahuac neighborhood of Mexico City.

There were no developments, and none were expected, in the 2003 lynching of Mariano Garcia Escamilla.

Organized military-style groups associated with drug cartels killed scores of persons during the year, including innocent bystanders and police. Local and international press continued to report that a group of former special forces soldiers (known as the "Zetas") collaborated with drug trafficking gangs. On October 1, four gunmen entered a hospital in Nuevo Laredo to carry off a wounded man suspected of being a cartel member and shot and killed a police officer. According to press ac-

counts, more than 135 persons were killed by violence in Nuevo Laredo between January and October, including 14 police officers.

Societal violence against women was a serious problem. The media reported the discovery of the bodies of 34 women in Ciudad Juarez (see section 5).

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, there were credible allegations of police involvement in kidnappings. In September Public Security Secretariat officers detained an agent from the attorney general's office (PGR) and two Mixed Unit Against Drug Dealing agents on charges of kidnapping and extortion of a manager of a nightclub. The three agents were in custody and pending trial at year's end. In several cases of reported disappearances, police actually had detained the missing person incommunicado for several days (see section 1.d.).

On April 2, an investigative reporter disappeared in Hermosillo, Sonora, on his way to meet a source (see section 2.a.). He remained missing at year's end and was presumed dead.

There were no developments, and none were expected in the following cases: 13 Chihuahua State judicial police arrested in January 2004 in connection with forced disappearances and killings at the behest of the Juarez drug cartel and the 2003 disappearance of Marcelino Santiago Pacheco, leader of the Organization of Indigenous Zapotec People.

The special prosecutor for past social and political movements made no significant progress on prosecuting crimes committed during the country's "dirty war" era of the 1970s and 1980s. On July 26, a court refused to issue an arrest warrant for former president Luis Echeverria and his interior secretary, Mario Moya Polencia, for ordering the 1971 massacre of student activists. On September 21, a court again refused to issue an arrest warrant for Echeverria this time for his involvement in the 1968 Tlatelolco Massacre, which the court found did not meet the definition of genocide.

On August 22, a court cancelled the 15-year sentence General Arturo Acosta Chaparro received for drug trafficking. Generals Acosta and Francisco Quiros Hermosillo still faced charges related to the killing of 22 *campesinos* during the 1970s.

Kidnapping continued to be a serious problem for all socio-economic levels. There were unofficial estimates of three thousand kidnappings annually, but many went unreported, as families negotiated directly with kidnappers. Nonetheless, security forces made several high-profile kidnapping arrests and rescues during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, they persisted, and torture in particular continued to be a serious problem. Despite the law's provisions to the contrary, confessions obtained by torture often were admitted as evidence (see section 1.e.). Many citizens distrusted the justice system, including law enforcement officials, and were reluctant to register official complaints. A May study by the Chamber of Deputies Center for Social Studies and Public Opinion found that for every complaint filed with authorities, two or three complaints were not filed because the public perceived the justice system as ineffective.

Authorities rarely punished officials for torture, which continued to occur in large part because confessions were the primary evidence in many criminal convictions (see section 1.e.). Human rights groups linked torture to the pervasiveness of arbitrary detention, as police and prosecutors attempted to justify an arrest, many times without a warrant, by securing a confession to a crime (see section 1.d.). Additionally, investigators often attempted to solve crimes by rounding up likely suspects and extracting confessions through torture.

Although the president signed the Facultative Protocol of the UN Convention Against Torture in March, the government did not generally implement preventive measures against torture and complete transparency in reporting incidents. In March the representative for the Office of the UN High Commissioner for Human Rights stated that torture continued, and in June Amnesty International (AI) reported that it had documented 46 cases of torture over the previous 18 months. In November the president of the National Commission for Human Rights (CNDH) Jose Luis Soberanes stated that the CNDH had received 12 torture complaints during the year. According to Soberanes, authorities have added more modern psychological methods of torture to the traditional methods of beatings, burning with cigarettes, near suffocation, and hitting with telephone books.

On July 14, a judge released Victor Garcia Uribe, one of four prisoners identified in June 2004 as a victim of torture. Two others had been released in 2004, and a fourth person remained in prison awaiting results from a review of his Istanbul Pro-

to col filing. While authorities had not punished any police officers accused of torture in these cases, investigations continued at year's end.

Officials in the state of Jalisco failed to act on recommendations from the CNDH concerning reports that police tortured and mistreated protesters detained in May 2004 in Guadalajara. In May AI reported that several detainees were coerced, beaten, or threatened into making confessions or giving the names of those suspected of having carried out sporadic acts of violence that ensued when police clashed with demonstrators at the closing of the Third Summit of Heads of State and Government of Latin America, the Caribbean, and the European Union. The government had not sanctioned any officials involved.

On August 25, Mexico City police released Nadia Zepeda from prison. At the time of her conviction for drug offenses in 2003, Zepeda, then age 18, claimed police raped and tortured her while she was in custody at the police station, and human rights groups stated that her trial was deeply flawed. No sanctions were imposed against those accused, but Zepeda was pursuing complaints against them.

On June 19, local police in Ciudad Juarez arrested American citizen minor Bryan Torres on homicide charges. Torres reported that police beat and threatened him in an attempt to extract a confession to his involvement in the killing of two local police officers. No sanctions were imposed on the officers involved. Torres was appealing his conviction at year's end.

On August 6, an American citizen reported to the district attorney's office in Ciudad Juarez that local police had detained and raped her in the back of a police van. The victim and her family also complained that local police threatened them with arrest when they tried to report the crime at the municipal police station. Of the three officers involved in the incident, one officer was in custody, one officer was released on bail, and an arrest warrant was outstanding for the third officer.

*Prison and Detention Center Conditions.*—Prison conditions remained poor. The CNDH reported that corruption, overpopulation, alcoholism, and drug addiction were prevalent in most facilities. Undertrained, underpaid, and corrupt guards staffed most prisons. Health and sanitary conditions were poor, and most prisons did not offer psychiatric care. Authorities occasionally placed prisoners in solitary confinement for indefinite periods; prisoners often had to bribe guards to acquire food, medicine, and other necessities. Prison overcrowding continued to be a common problem as the country's 455 penal facilities were at 125 percent capacity, with 1 prison at 270 percent capacity.

In many prisons, inmates exercised significant authority, displacing prison officials and creating general insecurity. In January military authorities were called into the maximum-security prison La Palma and later into other maximum-security prisons to regain control from convicted drug dealers who were subverting internal security and running their external criminal organizations from inside.

Extensive insecurity led to numerous inmate deaths, generally at the hands of other prisoners. There were at least 37 deaths in prisons throughout the country during the year, with 17 deaths in Mexico City prisons.

In 2004 the CNDH noted that female prisoners lived in worse conditions than male prisoners.

Pretrial detainees routinely were held together with convicted criminals.

The government permitted independent monitoring of prison conditions by nongovernmental organizations (NGOs) and human rights organizations. The International Committee of the Red Cross, the CNDH, and state human rights commissions visited detainees during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention as well as sponsoring or covering up an illegal detention; however, police routinely ignored these provisions.

*Role of the Police and Security Apparatus.*—The federal, state, and municipal police forces included 331 thousand officers. The federal and state police are divided into preventive and judicial police. Preventive police maintain order and public security and generally do not investigate crimes. Judicial police serve as the investigative force under the authority and command of the public ministries (prosecutor's offices). The military is responsible for external security but also has significant domestic security responsibilities, particularly in combating drug trafficking and maintaining order.

Corruption continued to be a problem, as many police were involved in kidnapping, extortion, or in providing protection for or acting directly on behalf of organized crime and drug traffickers. Impunity was pervasive to an extent that victims often refused to file complaints. Responsibility for investigating federal police abuse falls under the purview of the PGR and the Secretariat of Public Administration (SEFP), depending on the type of offense. The CNDH also can receive complaints, but

its recommendations are nonbinding and carry no legal weight. A similar mechanism exists at the state level. The CNDH provided human rights training for security and military forces, and the government continued professional training of its law enforcement officials. The National Defense Secretariat held numerous events, seminars, and classes in conjunction with the CNDH, and the military prosecutor's office offered human rights training to more than 16 thousand security forces.

In June the government deployed federal authorities and military forces along its northern border and elsewhere as part of "Operation Secure Mexico" in response to deadly attacks against government officials and general lawlessness. Also in June, federal authorities assumed control of all law enforcement activities in Nuevo Laredo, Tamaulipas, for 6 weeks while the government suspended the entire 700-officer municipal police force and investigated it for connections to drug traffickers and organized crime. The investigations led to the discharge of 250 police officers.

*Arrest and Detention.*—Police arbitrarily arrested and detained persons suspected of crimes, in many cases without a warrant. In the legal system a suspect is deemed guilty until proven innocent. A prosecutor may hold a person up to 48 hours (96 hours in cases of organized crime) before presenting the suspect to a judge and announcing charges. The law provides that authorities must sentence an accused person within four months of detention if the alleged crime carries a sentence of less than two years' imprisonment, or within one year if the crime carries a longer sentence; in practice, judicial and police authorities frequently ignored these time limits (see sections 1.c. and 1.e.). A financial bond may be placed as bail only in cases that carry penalties of five years or less; otherwise, release is not available. Detainees were usually allowed prompt access to family members and to counsel.

Police detained missing persons incommunicado for several days. AI reported that on August 23, local police in Huitiupan, Chiapas, arrested Rosario Diaz Mendez, a Tzotsil indigenous person, and detained him in an unofficial detention center. Diaz's family was unable to confirm his whereabouts or establish his legal situation until August 25. Diaz claimed that during his detention police tied and blindfolded him and placed a plastic bag over his head in an effort to force his confession to involvement in a kidnapping.

In August police fired tear gas and detained more than 500 persons in a confrontation with demonstrators urging authorities to end an investigation of a children's home in Cancun, Quintana Roo. There were numerous injuries as a result of a violent clash between one group in the crowd and police, among them two women taken to the hospital in critical condition. Those detained complained of ill treatment, torture, and arbitrary detention. Local authorities were investigating the complaints at year's end.

In November 2004 local police in the state of Guerrero arrested and charged Felipe Arreaga Sanchez, an environmental activist, with the 1998 killing of the son of a politically connected local timber businessman, Bernardino Bautista. AI identified many irregularities with the case and declared Arreaga a prisoner of conscience. In September a judge dismissed all charges due to insufficient evidence and released Arreaga.

There were no reports of political detainees.

Lengthy pretrial detention remained a problem. A 2004 Open Societal Justice Initiative study estimated that there were approximately 82 thousand detainees awaiting trial, which constituted approximately 42 percent of all persons imprisoned. The media reported that detainees sometimes were held several years without a trial.

*Amnesty.*—The CNDH cooperated with the PGR and the Public Security Secretariat to review cases of indigenous prisoners and secure prisoner releases as merited. By year's end authorities had released more than 300 indigenous prisoners (see section 5).

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, government authorities occasionally influenced court decisions, particularly at the state and local level. Corruption, inefficiency, and lack of transparency continued to be major problems in the justice system.

The federal court system consists of the Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

*Trial Procedures.*—Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings during which the court receives documentary evidence or testimony. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties involved have access to the official file, but only by special motion.

The law provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the government generally respected these rights in practice. In most cases, court hearings were open to the public.

In February Nuevo Leon became the first state to hold oral trials for crimes carrying maximum penalties of seven years. At least five other states were considering similar justice reforms.

Although the law provides defendants with the right to an attorney at all stages of criminal proceedings, in practice this only meant that authorities had to appoint a "person of confidence" to represent a defendant. A "person of confidence" was not required to meet any particular legal qualifications. The public defender system was not adequate to meet demand. Defendants' services were placed either in the judicial or executive branch; there were no autonomous public defender services.

The situation was often more complicated in cases of indigenous defendants who did not speak Spanish. Although the law provides for translation services to be available at all stages of the criminal process, this generally was not done. Consequently, defendants sometimes were unaware of the status of their cases, and suspects frequently were convicted without fully understanding the documents they were required to sign. The government continued an amnesty program for indigenous prisoners to try to rectify the problem (see section 1.d.).

Judges continued to allow statements coerced through torture to be used as evidence against the accused (see section 1.c.), a practice particularly subject to abuse because confessions were the primary evidence in nearly all criminal convictions. NGOs declared that judges often gave greater evidentiary value to the first declaration of a defendant, thus providing prosecutors an incentive to obtain an incriminating first confession and making it difficult for defendants to disavow such declarations.

The law provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to request the immediate transfer of the case to military jurisdiction, a practice condemned by the Inter-American Commission on Human Rights.

*Political Prisoners.*—There were some reports of political prisoners. On December 27, the state of Guerrero Secretary General Armando Chavarria Barrera stated that his office was reviewing the cases of 9 potential political prisoners held in the state's penitentiaries and that an official count would be released when he had completed an investigation into all 18 Guerrero penitentiaries. The secretary general did not provide a time frame for the completion of this review nor what action would be taken if political prisoners were found.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the law prohibits such practices and requires search warrants, authorities occasionally disregarded these provisions. The CNDH received 59 complaints of illegal searches from January through August.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and the press, and the government generally respected these rights in practice.

While the government generally tolerated criticism, officials occasionally responded to unfavorable news articles by threatening their authors with libel and defamation lawsuits. There were approximately 300 privately owned newspapers, and most radio stations were privately owned.

Despite federal government support for freedom of the press, journalists worked in an extremely dangerous environment. Two journalists were killed during the year, and one disappeared and was presumed dead; others were harassed, threatened, or attacked. Between January and July, the CNDH received 54 complaints regarding violence against the media. In September the Committee to Protect Journalists stated that the country's northern states were particularly hazardous for journalists, particularly for those covering crime and drug trafficking.

The PGR participated in investigations of the killing of journalists and named special prosecutors in the states of Chihuahua, Durango, Oaxaca, Sinaloa, Tabasco, Tamaulipas, and Yucatan to deal specifically with crimes against the media. In June the PGR established a hot line to receive information and tips about cases involving the killing of journalists.

On July 18, a mob of alleged union members in Oaxaca forcibly evicted 31 staff members of the daily newspaper *Noticias* from a building owned by the paper. *Noticias* had criticized the Oaxaca State government and Governor Ulises Ruiz Ortiz. As police looked on, masked attackers carrying pickaxe handles destroyed equipment and forced staff to abandon the building. The following day, police con-

fiscated a van delivering *Noticias* and arrested the driver. Authorities conducted no investigation.

Reporters covering the various drug cartels and associated corrupt public officials acknowledged practicing self-censorship, recognizing the dangers investigative journalism presented to themselves and their families.

International press organizations contended that federal and state criminal defamation and libel laws violate freedom of expression and advocated their repeal. On February 24, authorities in Pachuca, Hidalgo, seized all copies of national daily *El Universal* that published an article criticizing the governor.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occurred frequently throughout the country. Several times during the year demonstrators clashed with police, and subsequent arrests led to complaints of arbitrary detention, use of excessive force, and torture (see sections 1.c. and 1.d.).

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. However, poor enforcement mechanisms have allowed local authorities to discriminate against persons based on their religious beliefs, especially in the south. Federal and local governments often failed to punish those responsible for acts of religious discrimination.

Religious associations must register with government to operate legally. Although the government may reject applications because of incomplete documentation, the registration process was routine. More than 6,300 religious associations were registered.

*Societal Abuses and Discrimination.*—In the central and southern regions, some leaders of indigenous communities regarded evangelical groups as unwelcome outside influences and as economic and political threats. These leaders sometimes acquiesced in or ordered the harassment or expulsion of individuals belonging chiefly to Protestant evangelical groups. Whether a group was displaced forcibly with violence or left voluntarily to avoid harassment, it often found itself living on the outskirts of another local community in circumstances even worse than the extremely poor conditions common to the region. On several occasions, village officials imposed sanctions on evangelicals for resisting participation in community festivals or refusing to work on Saturdays. In March, Catholics in Zinacantan, Chiapas, refused to admit Protestant children to schools, and the water supply was cut off for 90 Protestant families (approximately 300 persons) in the same community.

In October 40 families (approximately 150 persons) were threatened with expulsion from San Nicholas in the state of Hidalgo for not contributing to the community and work projects. In November the governor of Hidalgo and officials from the secretariat of government met with representatives of the Protestant families and publicly assured their safety and right to remain; however, tensions remained high at year's end.

There were several cases during the year in which an evangelical member of a Catholic-dominated community was denied burial in the local Catholic cemetery under the "usages and customs" law. In such cases, the government's state religious affairs office attempted to mediate a solution between the families and local authorities, and in two cases, the state government assisted families to pay the burial expenses.

The Jewish community numbered approximately 45 thousand persons. There was one isolated report of an anti-Semitic act: In October demonstrators supporting workers of the Social Security Institute (IMSS) during contentious contract negotiations put up signs in front of an IMSS clinic that included swastikas and anti-Semitic slurs in reference to the IMSS Director Santiago Levy.

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

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

The law does not permit forced exile, and it was not practiced.

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

tion. From January to July, the government granted refugee status or asylum to 131 applicants.

The government has provided temporary protection in the past to individuals who may not qualify as refugees under the 1951 Convention and its 1967 protocol but did not do so during the year. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

*Elections and Political Participation.*—In 2000 voters elected President Fox in a multiparty election that international and domestic observers described as generally free and fair.

During the year eight states held elections for governor along with municipal elections, and the local press and human rights activists reported complaints of voter intimidation and fraud. In January post-election clashes in Oaxaca between activists from the Institutional Revolutionary Party and the Party of Democratic Revolution (PRD) resulted in 6 deaths, injuries to 20 persons, and 25 arrests.

In June President Fox signed a law allowing an estimated 11 million citizens living abroad to vote by mail-in ballot in the 2006 presidential elections.

In April the lower house voted to strip former Mexico City Mayor Andres Manuel Lopez Obrador of the immunity from prosecution associated with his office, a move widely considered a political ploy to prevent the popular PRD mayor from entering the presidential race. Lopez Obrador was accused of violating a court order to stop construction of an entrance road to a hospital and a prosecution could have prevented him from running for the presidency in 2006; however, the charges were not pursued.

Political parties, opposition groups, and independent associations functioned freely without government interference or restriction. National political parties must be recognized by the Federal Electoral Institute (IFE) and must receive at least 2 percent of the vote in national elections to maintain their registration. The IFE recognized eight national political parties. The law requires presidential candidates to represent a political party.

There were 27 women in the 128-seat Senate and 120 women in the 500-seat lower house. There were two female justices on the Supreme Court, one female cabinet member, and four women in the extended cabinet.

Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties continued their efforts to increase the number of women who run for elected office through formal and informal means. Some utilized quotas requiring that a certain percentage of candidates on a party list be female.

There were no statistics available regarding minority participation in government.

The law provides for the right of indigenous people to elect representatives to local office according to “usages and customs” law, rather than federal and state electoral law. Voter intimidation and conflict was not uncommon during elections in some indigenous communities. Traditional customs varied by village. In some villages, women did not have the right to vote or hold office; in others they could vote but not hold office (see section 5).

*Government Corruption and Transparency.*—Corruption was a problem at all levels of government as public officials continued to be involved frequently in bureaucratic abuses and a variety of criminal acts with impunity (see sections 1.b., 1.c., 2.a., 5, and 6). All major political parties were fined for illegal campaign funding over the last few years, and paying bribes to public officials and security forces continued to be a part of everyday life. In November the coordinator general of the civil protection agency, Carmen Segura Rangel, resigned her position in connection with financial irregularities at the federal disaster assistance fund. The SFP fined her \$77,300 (\$773 thousand pesos) and banned her from holding a federal public administration position for 10 years.

Since enactment of a 2003 law providing for public access to government information, transparency in public administration at the federal level has improved noticeably, and the government provided access to citizens and non-citizens, including foreign media. Access to information at the state and local level remained slow. According to a study by the International Relations Center, at the end of 2004 more than half of the country’s 31 states had enacted transparency laws, but only 25 of 1,062 municipalities in those states had registered transparency rules.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases.

Although federal government officials often were cooperative and responsive to their views, state and municipal authorities frequently harassed human rights defenders.

AI reported that on November 20, human rights activist Gustavo Jimenez Perez was beaten severely by six men who forced their way into his house. Jimenez had been researching alleged official corruption in the distribution of humanitarian relief in the aftermath of an October hurricane. Human rights defenders reported that they were the target of threats and harassment, particularly at the state and municipal level, and that official investigations usually were ineffective in identifying the perpetrators.

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

The law prohibits discrimination based on race, gender, disability, or religion. While the government continued to make progress enforcing these provisions, significant problems, particularly violence against women, persisted.

*Women.*—Domestic violence was pervasive and vastly underreported. The law prohibits domestic violence, including spousal abuse, and stipulates fines equal to 30 to 180 days' pay and detention for up to 36 hours; however, actual sentences were normally lenient. According to a 2003 survey of the National Statistical Institute (INEGI), 47 percent of women age 15 and over had suffered at least 1 incident of physical, emotional, or sexual aggression. Victims generally did not report abuse for a variety of reasons, including reprisal by their spouse, fear of becoming economically destitute if their spouse is imprisoned, and the general disinterest of authorities in prosecuting such offenses.

In January the government's cabinet-level National Institute of Women (INMUJERES) reported that the national hot line established under the National Plan for a Life without Violence received more than twice as many calls in 2004 (11,396) as in 2003 (5,460). While some government-funded shelters for victims of domestic violence have been built, civil society organizations and women rights groups maintained the vast majority of available shelters. In August the state of Chiapas opened a comprehensive domestic violence shelter just outside Tuxtla Gutierrez for victims of domestic violence and their children.

The law prohibits rape and includes penalties of up to 20 years; however, victims rarely filed complaints with police. In November the Supreme Court confirmed that marital rape was illegal. In February Special Rapporteur of the UN Commission on Human Rights on Violence Against Women Yakin Erturk stated that impunity for sexual violence against women in the country was extensive and that perpetrators of such crimes rarely were brought to justice. According to the NGO Mexican Commission for Human Rights, spouses or partners committed 58 percent of reported homicides against women, and in 63 percent of sexual assault cases, the woman brought charges against someone in her family. Rapporteur Erturk added that violence against indigenous women was often "dismissed or justified within the context of cultural specificity."

The problem of violence against women was particularly grave in Ciudad Juarez and the state of Chihuahua, where 34 killings were discovered during the year. In August Special Commissioner Morfin submitted her second progress report, which attributed the slow investigative process to a culture of impunity, dubious investigative techniques, including torture, and police corruption and ineptitude (see section 1.c.). Morfin acknowledged that the state and municipal authorities of Chihuahua had shown a more favorable attitude and a new willingness to investigate cases correctly, but federal, state, and local efforts to solve the killings and restore security needed to be better coordinated.

On May 30, the government named Mireille Roccatti the new special prosecutor assigned to investigate the unsolved killings of more than 350 women and young girls in Ciudad Juarez and surrounding area over the past 12 years. On September 15, Roccatti resigned as special prosecutor, stating that her work would be completed by year's end. The PGR announced plans to expand the prosecutor's mandate to investigate violence against women throughout the country.

In August CNDH issued its second special report on the Ciudad Juarez killings; it stated that between January 1993 and August, authorities had opened 367 cases: 169 cases were concluded in a court (144 resulted in convictions, 9 resulted in acquittal, and 16 were resolved by a court for minors), 184 cases were still in process, and 14 cases were closed. There were also 36 cases registered as disappearances.



In August an Argentine forensics team arrived in Ciudad Juarez to help identify bodies and provide technical assistance in investigations. Several suspects who claimed that police tortured them into confessing were released (see section 1.c.). The authorities signaled a greater willingness to investigate cases with the swift arrest of several suspects in the case of Airis Estrella Enriquez Pando, a 7-year-old girl who was raped and killed in May.

Prostitution is legal for adults, and it was practiced widely. While pimping and prostitution by minors under age 18 are illegal, these offenses also were practiced widely, often with the collaboration or knowledge of police. The country is a destination for sexual tourists and pedophiles, particularly from the United States. Trafficking in women and minors for prostitution was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and provides for fines of up to 40 days' minimum salary, but victims must press charges. Reports of sexual harassment in the workplace were widespread, but victims were reluctant to come forward, and cases were difficult to prove.

The law provides that women shall have the same rights and obligations as men, and that "equal pay shall be given for equal work performed in equal jobs, hours of work, and conditions of efficiency." In May, however, INMUJERES announced that women workers earned significantly less than their male counterparts, more than 50 percent less in certain occupations.

Labor law provides extensive protection for pregnant women, which some employers reportedly sought to avoid by requiring pregnancy tests in pre-employment physicals and by continuing to make inquiries into a woman's reproductive status. In April INMUJERES and several other government agencies, launched a national campaign to raise awareness of laws protecting women against pregnancy testing.

*Children.*—The government was committed to children's rights and welfare. Although the government maintained programs to support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers, problems in children's health and education remained pervasive. Public education is offered through the university level, including advanced degrees. Nine years of education are compulsory, and parents are legally responsible for their children's attendance. The 2002 census conducted by the INEGI showed that 91 percent of children between ages 6 and 14 attended school, but only 68 percent of all children entering the first grade completed all nine years of compulsory education. In 2003 average educational attainment in the population aged 15 and older was 7.9 years.

The government provided numerous health care programs for boys and girls on the basis of equal access. The UN Children's Fund (UNICEF) reported 98 to 99 percent immunization rates for 1-year-old children.

Government statistics for 2000 (the most current available) recorded the following rates of reported violent treatment in the home: 28 percent of those aged 6 to 9, 9 percent of those aged 10 to 13, and 10 percent of those between 14 and 17.

Child marriage remained a problem. UNICEF reported in a 2003 survey that 28 percent of women 20 to 24 years of age had been married or in a union before the age of 18. In 2003, according to INEGI, 12 percent of men and 27 percent of women married between the ages of 15 and 19.

Trafficking in children for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Child labor was a problem, particularly among migrant farming families (see section 6.d.).

*Trafficking in Persons.*—While the law prohibits aspects of trafficking in persons, persons were trafficked to, from, or within the country, and there were credible reports that police, immigration, and customs officials were involved (see section 2.d.).

While no federal law prohibits all forms of trafficking in persons, various laws forbid certain aspects of trafficking. In November Baja California Norte became the first state to approve a comprehensive law to combat trafficking in persons. At the federal level child prostitution and pornography are felonies; anyone convicted of introducing a minor under age 16 to pornography, prostitution, or sexual exploitation can be sentenced to 5 to 10 years' imprisonment. Accomplices to sexual abuse or exploitation of a minor may be imprisoned for 6 to 10 years. When physical or psychological violence is used for sexual abuse or to profit from exploitation of a minor, the penalties are increased by up to one-half. The law also forbids forced or compulsory labor (see section 6.c.).

The government faced structural inefficiencies in collecting data and fostering investigations, prosecutions, and convictions of trafficking cases. Authorities disrupted smuggling operations, which often were directly involved in trafficking, and arrested

a number of suspected traffickers during the year. Nonetheless, convictions remained elusive, and differentiating trafficking cases from other types of cases, such as alien smuggling, remained a challenge for the government.

In August foreign national Frank White was extradited from Thailand to Mexico to stand trial for corruption of a minor and child prostitution. White was accused of sexually abusing, making pornographic films of, and prostituting more than 75 children in the Puerto Vallarta area since 1999.

CISEN is the lead operational and coordinating agency for antitrafficking efforts. The National Migration Institute (INM), the PGR, the PFP, the Foreign Ministry, and the Integral Development of the Family (DIF) also played key roles in combating trafficking, protecting victims, and prosecuting traffickers.

During the year the government participated in international investigations of trafficking.

The country was a point of origin, transit, and destination for trafficking victims. The vast majority of non-Mexican trafficking victims came from Central America; lesser numbers came from Brazil, Ecuador, China, Taiwan, India, and Eastern European countries. Victims were trafficked principally to the United States. Although there were no reliable statistics on the extent of trafficking, the government estimated that 20 thousand children were sexually exploited each year. Sexual tourism and sexual exploitation of minors were significant problems in the northern border area and in resort areas. Undocumented migrants from Central America and the poor were most at risk for trafficking.

CISEN reported that trafficking is usually only one element of organized criminal gang activities. Transnational and domestic organized criminal networks and gangs were the primary perpetrators of trafficking in persons. Many illegal immigrants fell prey to traffickers along the Guatemalan border, where the growing presence of gangs such as *Mara Salvatruchas* and *Barrio 18* made the area especially dangerous for unaccompanied women and children migrating north, whose numbers continued to increase.

Most victims of trafficking were poor and uneducated. Trafficking victims often related that they were promised a good job, but once isolated from family and home, were forced into prostitution or to work in a factory or the agriculture sector. Other young female migrants recounted being robbed, beaten, and raped by members of criminal gangs and then forced to work in table dance bars or as prostitutes under threat of further harm to them or their families.

There were credible reports that individual police, immigration, and customs officials participated in, facilitated, or condoned trafficking, primarily for money. Poorly paid frontline officials frequently extorted money from victims and traffickers. In September a judge issued arrest warrants for seven INM agents in connection with their participation in a human smuggling ring. An investigation was ongoing at year's end.

During the year INM on a case-by-case basis began issuing visas to trafficking victims allowing them to remain in the country; at least four victims received such visas during the year.

Several NGOs, including the Bilateral Border Safety Coalition, the IOM, *Casa Alianza*, The Coalition Against Trafficking in Women, and *Sin Fronteras* assisted trafficking victims with education and prevention programs.

The government supported general trafficking prevention campaigns for children and women and administered special assistance programs for children repatriated to the country. While a partial framework existed to protect and provide social services to the victims of trafficking, undocumented migrants usually were deported before they could be identified and removed from the detention system. The government increased cooperation with NGOs and international organizations to build a network of trafficking victims' services and to identify potential trafficking victims. Bilateral cooperation against trafficking increased with programs to combat trafficking, increase protection for victims, and promote awareness.

*Persons with Disabilities.*—Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other services, the government did not effectively enforce all such provisions. Most public buildings and facilities in Mexico City did not comply with the law requiring access for persons with disabilities. The federal government stated that entrances, exits, and hallways in all of its offices had been made accessible to persons with disabilities, and in May it began a program to improve access in 13 airports.

Although the government made progress in treating persons with mental health illnesses, problems remained. According to the Pan American Health Organization, no more than 25 percent of those with a mental illness received adequate treatment. The World Health Organization reported that psychiatric hospitals overused electro-

shock treatment. The Ministry of Health stated that it investigated claims of abuse and spent \$3 million (\$33 million pesos) during the year to improve mental health treatment in four states.

During the 2003 congressional and state elections, the federal and state governments provided ballots, ballot boxes, and a special ballot holder and marker for voters with vision and motor skill disabilities.

The secretary of health collaborated with the secretaries of social development, labor, and public education, as well as with the DIF and the Office for the Promotion and Social Integration of the Disabled to protect the rights of persons with disabilities. During the year the government established offices and programs for the social integration of persons with disabilities, including a program to enhance job opportunities and launch an online portal to disseminate information and assistance.

*Indigenous People.*—The indigenous population has been long subject to discrimination, repression, and marginalization. Indigenous communities, located principally in the central and southern regions, represented 37 percent of the population in the states of Oaxaca and Yucatan. These groups remained largely outside the political and economic mainstream, due to longstanding patterns of social and economic discrimination. In many cases their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources were negligible.

There were numerous allegations of the use of excessive force and the violation of international humanitarian law. During the year the government maintained troops in selected areas of Chiapas and Guerrero, which was a continuing point of concern for many NGOs and indigenous rights groups.

Sporadic outbursts of politically motivated violence continued to occur in indigenous communities in the states of Chiapas, Guerrero, and Oaxaca. Historic land disputes also caused tensions in the indigenous regions.

Indigenous people did not live on autonomous reservations, although some indigenous communities exercised considerable local control over economic, political, and social matters. In the state of Oaxaca, for example, 70 percent of the 570 municipalities were governed according to the indigenous regime of “usages and customs” law, which did not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation. These communities applied traditional practices to resolve disputes and choose local officials. While such practices allowed communities to elect officials according to their traditions, “usages and customs” laws tended to exclude women from the political process and often infringed on other rights of women.

The law provides some protection for indigenous people, and the government provided support for indigenous communities through social and economic assistance programs, legal provisions, and social welfare programs. Budget constraints, however, prevented these measures from meeting the needs of most indigenous communities, as severe shortages in basic infrastructure as well as health and education services persisted.

The law provides that educational instruction shall be conducted in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages. However, many indigenous children spoke only their native languages, and the government did not provide a sufficient number of native language or bilingual teachers.

The government generally showed respect for the desire of indigenous people to retain elements of their traditional culture. The CNDH’s Office of the Fourth Inspector General investigated violations of indigenous rights. More than 130 NGOs were dedicated to the promotion and protection of indigenous rights.

*Other Societal Abuses.*—While homosexuals experienced a growing social acceptance, the National Center to Prevent and Control HIV/AIDS (CONASIDA) stated that discrimination persisted. Homophobic beliefs and practices were common, reflected principally in entertainment media programs and everyday attitudes. Reports of attacks against homosexuals and transsexuals were frequent.

The law prohibits several types of discrimination, including bias based on sexuality, and requires federal agencies to promote tolerance. In April the government launched a radio campaign to fight homophobia with material prepared by the CONASIDA.

A nationwide government survey released in May recorded that 44 percent of respondents said they would not share a house with an HIV-positive person, and 42 percent would not seek government intervention if their town banned homosexuals.

There were several incidents of harassment of, violent attacks on, and killing of homosexuals. On June 21, unknown assailants stabbed and killed Octavio Acuna while he worked in his condom shop in Queretaro. Acuna was a prominent human rights activist who campaigned for the rights of persons with HIV/AIDS and worked

for a sexual education association; the legal representative of the Queretana Association for Sexual Education, to which Octavio belonged, said that she considered Octavio's killing an act of homophobia. An investigation continued at year's end.

There were credible reports that police, immigration, and customs officials frequently violated the rights of undocumented migrants. Robbery and killings by the criminal gangs such as the *Mara Salvatruchas* and *Barrio 18* intensified on the southern border and spread northward. Undocumented migrants rarely filed charges in such cases because the authorities generally deported such persons who came to their attention.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Federal law provides workers the right to form and join trade unions of their choice, and workers exercised this right in practice. According to INEGI statistics, there were 45 million workers in the workforce, with 15 million in the formal sector—those paying taxes to the IMSS. Approximately 25 percent of the formal sector is unionized.

By law, 20 workers can form an independent union with a formal registration. Administrative procedures for registration are complex, and government labor boards frequently rejected applications on technicalities. A new union also must challenge the government-sanctioned union, if one exists, for control of the labor contract. Representation elections are traditionally open, which means management and officials from the existing union are present with the presiding labor board official when workers openly and individually declare their votes. Open elections have resulted in intimidation of pro-union workers.

In May the labor board in Guanajuato became the first state labor board to order a secret ballot election and permit international observers to be present during a representation election. Turnout approached 80 percent, and there was no physical violence.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the government protected this right in practice. Collective bargaining contracts covered approximately 7 percent of workers. The law provides for the right to strike in both the public and private sector, and workers exercised this right. Although few formal strikes actually occurred, informal stoppages of work were common.

There are no special laws or exemptions from labor laws in export processing zones. Management in the *maquila* (in-bond export) sector and elsewhere sometimes used protection contracts to discourage workers from forming authentic unions at a company. Such contracts were collective bargaining agreements negotiated by management and a representative of a so-called labor organization without the knowledge of the workforce, sometimes even prior to hiring a single worker in a new factory.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, such practices commonly persisted in both rural and industrial sectors. Migrants and children were the most vulnerable.

Forced labor by children was a problem (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, including a prohibition on forced or compulsory labor; however, the government did not effectively enforce such prohibitions. The law prohibits children under age 14 from working, and those between age 14 and 16 may work only limited hours with parental permission, with no night or hazardous work. UNICEF reported that 16 percent of children age 5 to 14 were involved in child labor activities.

The Secretariat of Labor (STPS) is charged with protecting worker rights. Government enforcement was reasonably effective at large and medium-sized companies, especially in the *maquila* and other industries under federal jurisdiction. Enforcement was inadequate at many small companies and in the agriculture and construction sectors, and it was nearly absent in the informal sector in which most children work.

During the year STPS, the Secretariat of Social Development, and DIF carried out programs to prevent child labor abuses and promote child labor rights, including specific efforts to combat the commercial sexual exploitation of children (see section 5). UNICEF stated that, despite the government's progress in reducing its incidence over the past 10 years, child labor remained a significant problem.

It was not uncommon to find girls under the age of 15 working in prostitution. Trafficking in children for sexual exploitation was a problem (see section 5).

*e. Acceptable Conditions of Work.*—The law provides for a daily minimum wage, which is set each December for the coming year. For the year, the minimum daily

wages, determined by zone, were: \$4.36 (48 pesos) in Zone A (Baja California, Federal District, State of Mexico, and large cities); \$4.23 (46 pesos) in Zone B (Sonora, Nuevo Leon, Tamaulipas, Veracruz, and Jalisco); and \$4.11 (45 pesos) in Zone C (all other states). The minimum wage did not provide a decent standard of living for a worker and family, and only a small fraction of the workers in the formal workforce received the minimum wage. STPS is charged with protecting worker rights, including minimum wage provisions in the law, and it did so effectively.

The law sets six 8-hour days as the legal workweek. Any work over eight hours in a day is considered overtime for which a worker receives double the hourly wage. After accumulating nine hours of overtime, a worker earns triple the hourly wage, and the law prohibits compulsory overtime. However, there were labor rights disputes filed with labor boards and international labor organizations during the year with complaints that workers did not receive overtime pay they were owed.

The law requires employers to observe occupational safety and health regulations, issued jointly by STPS and the IMSS. Legally mandated joint management and labor committees set standards and were responsible for workplace enforcement in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves.

While STPS and IMSS officials reported that compliance was reasonably good at most large companies, there were not enough federal inspectors to enforce health and safety standards at smaller firms.

## NICARAGUA

Nicaragua is a constitutional democracy, with a population of approximately 5.4 million. In 2001 voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as president in a generally free and fair election. While civilian authorities generally maintained effective control of the security forces, some members of the security forces committed human rights abuses.

The human rights situation was affected significantly by persistent impunity, corruption, and a political struggle between the Bolanos administration and the opposition dominated legislature and judiciary. During the year the National Assembly attempted to rewrite the constitution and strip the executive branch of powers and institutional control. By year's end a framework law was agreed that would postpone any application of these constitutional changes until January 2007. The following human rights problems were reported:

- unlawful killings by members of the security forces
- harsh detention conditions
- beatings, torture, and other alleged abuses of detainees
- arbitrary arrest and detention of citizens
- politicization and corruption of the judiciary
- harassment and killing of journalists
- corruption and politicization of the Supreme Electoral Council
- politicization of the Office of the Human Rights Ombudsman
- domestic abuse and rape, and wage discrimination against women
- violence against children and child prostitution
- trafficking in women and girls for the purpose of sexual exploitation
- discrimination against indigenous people
- widespread child labor
- violation of worker rights in free trade zones

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government or its agents did not commit any politically motivated killings during the year, police received allegations from nongovernmental organizations (NGOs), the media, and private citizens of unlawful killings by police officers; each of these was referred to the inspector general (IG) of the police. All killings involving police were referred to the courts for review, but the courts rarely found officers guilty of wrongdoing. During

the first half of the year, the IG reported 79 cases of injuries inflicted on criminal suspects by police during arrests (see section 1.d.).

On February 23, one of several rural land occupations instigated by the Sandinista party (FSLN) led to a violent confrontation between squatters and police near the city of Chinandega, where three squatters were killed, and nearly two dozen police and squatters were injured seriously. Following an investigation, the police internal affairs unit suspended 10 officers for excessive use of force. Prosecutors concluded that there was sufficient evidence to bring charges against only two of the officers, Mayra Ines Altamirano and Francisco Javier Gonzalez. At year's end there were no further developments in the investigation or possible court proceedings against the two officers. The human rights NGO Nicaraguan Permanent Human Rights Commission (CPDH) concluded that while some police officers had abused their authority and used excessive force, the squatters and political elements that encouraged the land seizure also bore responsibility for the violence and deaths.

On June 26, in Managua, police officers Francisco Acuna, Julio Guerrero, and Juan Hernandez allegedly shot and killed 17-year-old Samuel Garcia Chica in Managua. According to media accounts, police opened fire on Garcia when he and several other young alleged gang members resisted police search efforts. Police internal affairs found insufficient evidence to accuse the officers of wrongdoing. At year's end there was no further information available regarding the investigation or possible judicial action.

At year's end the police had still made no progress in solving the May 2004 killings of four police officers at the police station in Bluefields.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there were credible reports that some police physically mistreated detainees, particularly to obtain confessions. The IG's office reported receiving 480 complaints of human rights violations by police officers during the first half of the year, including unlawful killings (see section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility; the IG's Office found that 126 complaints had merit. The IG's office punished 204 officers for violating human rights. As a result, police discharged three officers dishonorably, remanded six to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On May 1, three police officers in the municipality of El Tortuguero allegedly raped a fellow officer in the municipal police barracks. Internal affairs investigated and concluded that only one officer, Leonel Duarte Sequeira, committed the rape and that there was insufficient evidence against the other two alleged participants. Internal affairs ordered Duarte dishonorably discharged from the Nicaraguan National Police (NNP), and his case was sent to the Office of the National Prosecutor for Prosecution. At year's end there was no further information on Duarte's trial.

In 2003 the Granada criminal court absolved of all charges police officer Santiago Arauz Cardenas for the 2003 beating of Octavio de la Rocha.

*Prison and Detention Center Conditions.*—Prison conditions were harsh. According to government statistics, there were 5,589 inmates in prisons designed to hold 5,446 prisoners. Some prisons and police holding cells were significantly overcrowded and lacked proper sanitation. The Managua women's prison, with a capacity of 110, reportedly held 170 prisoners in July. International donors and the United Nations Development Program (UNDP) worked with the police to improve conditions in holding cells.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. For the country's 8 penitentiaries and 5,589 prisoners, the authorities maintained a staff of 28 medical specialists. Prison authorities reported that 30 percent of prisoners slept on metal bunks or mattresses on floors. A study carried out during the year by the authorities of the National Penal System (SPN) revealed that for each of 431 prisoners with serious mental and physical illnesses, the prison system had an average budget of \$.18 (3 cordobas) per month to purchase medicine.

The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Prison officials calculated that the daily expenditure per prisoner for food was approximately \$0.55 (9.2 cordobas). Many prisoners received additional food from visitors. Conditions in jails and holding cells remained harsh. Many holding cells were dark, poorly ventilated, unhygienic, and overcrowded. Suspects regularly were left in holding cells during their trials, because budgetary shortfalls restricted the use of fuel for transfers to distant courtrooms. At the Bluefields jail, there were 2 showers and 4 toilets for more than 100

prisoners. The authorities occasionally released detainees when they could no longer feed them.

In July Rosa Argentina Solorzano Picado died in the Managua women's prison. Her family alleged that she had suffered from a severe lung infection and other health problems and that prison and judicial authorities refused to transfer her out of the prison to receive medical attention. Prison authorities, the judiciary, and the Office of the National Prosecutor opened separate investigations to determine whether official wrongdoing or negligence contributed to Solorzano's death. Prison authorities ultimately concluded that three officials were negligent in their duties and failed to respond adequately to Solorzano's health problems. Prison authorities recommended administrative penalties for the three officials. No information regarding any further investigation was available at year's end.

The only separate prison for women was in Managua. In the rest of the country, women were housed in separate wings of prison facilities and were guarded by female custodians. Juveniles were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

The government permitted prison visits by local and international human rights observers, and such visits took place during the year.

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

*Role of the Police and Security Apparatus.*—The NNP is a single, unified force responsible for law enforcement throughout the country and is controlled by the Ministry of Government. Inadequate budget support for the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. As a result, the army provided support in rural areas. Lack of coordination and rivalries between the NNP and the army were problems. The NNP continued to reduce the law enforcement role of voluntary police, private citizens who helped fill staffing gaps in some areas and who sometimes were implicated in human rights abuses.

Corruption and impunity remained a problem. The IG's office investigated allegations of police abuse and remanded to the court system for review all cases in which police used deadly force. During the year the courts were slow in adjudicating cases submitted by the IG. While the police await court decisions, the IG office usually applies administrative restrictions, such as suspension with pay or confinement to precinct. There was no information available on the number of police officers remanded to the courts for cases involving deadly use of force.

Police trainees are required to receive human rights instruction to graduate from the police academy and become officers, and police officers must be recertified in human rights annually. The army included human rights training in its core training curriculum (see section 4).

*Arrest and Detention.*—Persons are apprehended openly, and the law requires police to obtain a warrant from a judicial authority prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. By law a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested. Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. This law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see section 1.c.). During the 48 hours, the suspect does not have access to bail or to visits from family members.

There were no reports of political detainees.

Statistics from the Department of Prisons indicated that 16 percent of all prisoners awaiting final verdicts were pretrial detainees, compared with 26 percent in 2002.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judicial system was susceptible to corruption and political influence. Judges' political sympathies or acceptance of bribes or influence from political leaders often influenced judicial actions and findings. While civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict, human rights and lawyers' groups continued to complain about judicial inaction and delay.

The PLC and FSLN manipulated the judiciary for political purposes. The FSLN utilized its political control of the judiciary to impede the resolution of property claims. Both lower courts and the Supreme Court rendered controversial judgments dismissing evidence and convictions against international drug traffickers.

On March 3, FSLN leader Daniel Ortega used personal connections with judicial officials to obtain a court order permitting him to hold a rally in Masaya on March 6 to block a campaign rally by a rival for the 2006 FSLN presidential candidacy,

former Managua mayor Herty Lewites. The media and human rights organizations, including the pro-Sandinista Nicaraguan Center for Human Rights (CENIDH), criticized the action as a politically motivated threat to the freedoms of expression and assembly.

In March the Supreme Court named Oscar Loza, formerly of the state security directorate and a documented human rights abuser during the 1980s Sandinista regime, as a Managua appeals court judge. In March and April the court system continued to erase all corruption charges and convictions against Byron Jerez, former director of taxation during the government of Arnoldo Aleman (see section 3).

In April the National Assembly elected four magistrates to the Supreme Court, ensuring that the institution remained evenly divided between PLC and FSLN caucuses with political loyalties either to Arnoldo Aleman or Daniel Ortega. Despite promises that FSLN leader Daniel Ortega had made to President Bolanos that independent candidates would be given fair consideration, the National Assembly ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos administration.

In July PLC-affiliated Judge Roxana Zapata granted to former President Aleman what the government and media described as an illegal medical parole that freed him from house arrest following 2003 convictions for money laundering, fraud, and corruption. According to the media and the government, the arrangement was part of a political deal between Aleman and Daniel Ortega. Although the attorney general's office appealed Aleman's release to an appeals court, sending Aleman back to house arrest for several weeks, on August 30, the Supreme Court, controlled by Aleman and Ortega supporters, approved the "medical parole" and ordered the government to release Aleman. The government released Aleman on September 22. Although Aleman's convictions technically remained in effect, press reports indicated that he and Ortega continued to negotiate a deal to erase the convictions.

The Supreme Court took partisan positions on legal issues in the institutional conflict between the Bolanos government and its FSLN and PLC opponents in the National Assembly. The court ignored the constitutional principle of separation of powers and ruled in favor of the assembly in every constitutional dispute that arose out of the assembly's reforms intended to strip powers from the presidency (see section 3). The Supreme Court's proposal during the year to create a body of judicial police that would follow its orders alone was dropped when the government and National Assembly reached a settlement.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and it administers the judicial system and nominates all appellate and lower court judges. The Supreme Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. The law requires that the attorney general investigate crimes committed by and against juveniles. The military code requires that the civilian court system try members of the military charged with common crimes.

There were no new developments in the case of Henry Ruiz and other members of the Augusto Cesar Sandino Foundation charged in 2003 with document fraud and illicit association to commit a crime. Observers noted that the charges were politically motivated.

*Trial Procedures.*—Trials are public and juries are used. Defendants have the right to legal counsel and are presumed innocent until proven guilty. The law provides public defenders to represent indigent defendants. Defendants can confront and question witnesses against them and also have the right to appeal a conviction. The Napoleonic legal process continued to be used for some old cases, particularly those which had been on appeal many times.

The country continued to lack an effective civil law system, with the result that private litigants often filed their cases as criminal complaints to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. This civil-based criminal caseload diverted resources from an overburdened prosecutor's office.

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

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

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Although the law provides for freedom of speech and of the press, and the government generally respected these rights in practice, several constitutional provisions potentially qualify freedom of the press. The constitution stipulates that citizens have the right to accurate information, thereby pro-



viding an exception by which the freedom to publish information that the government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, implying the potential for sanctions against the press. During the year the government did not invoke these provisions to suppress the media.

Journalists writing about controversial or politically sensitive subjects were subject to harassment and death threats. Well-connected individuals and groups also regularly used the corrupt court system to harass journalists by bringing trumped-up charges of libel or other crimes against them.

There were no new developments, and none were expected, regarding the August 2004 complaint filed by *La Prensa* journalist Mirna Velasquez with the CENIDH alleging blackmail and threats by Judge Carlos Mario Pena. During the year, however, Pena was removed from his position by the Supreme Court due to his involvement in a scheme to defraud the government of money seized from alleged international drug traffickers.

In May the National Assembly pressured the government into ratifying the new Arce Law, named for FSLN national assembly member Bayardo Arce. The law significantly reduced the tax exonerations that media outlets may obtain for imported materials and equipment. These tax exonerations helped the print and other media to keep prices low to enable wide access to information. Media outlets reported that the law resulted in significant bureaucratic delays that slowed the importation of needed printing supplies and equipment.

In June *La Prensa* political cartoonist Manuel Guillen received anonymous death threats, purportedly from the Sandinista party, in response to his regular caricatures of FSLN leader Daniel Ortega. Ortega and other FSLN leaders denied any responsibility for the threats. FSLN National Assembly deputy Tomas Borge told the media that if the FSLN had intended to kill Guillen, it would not have revealed its plans in advance.

In August taxi driver Santos Roberto Osegueda shot and killed *La Prensa* correspondent Ronny Adolfo Olivas Olivas in Esteli. Prior to the killing, Olivas received numerous death threats related to his reporting on international drug traffickers in the country. Media accounts stated that prior to his death Olivas had compiled a list of prominent individuals involved in drug trafficking in Esteli. On October 25, a jury trial found Osegueda guilty of murder, and on October 31, he was sentenced to 25 years' imprisonment.

In January a court in Juigalpa found the former PLC mayor of El Ayote, Eugenio Hernandez Gonzalez, guilty of murder in the November 2004 killing by shooting of *La Prensa* journalist Maria Jose Bravo Sanchez. The court sentenced Hernandez to 25 years in prison. The trial failed to address widespread public and media beliefs that others were involved in a politically motivated plot to kill Bravo Sanchez, who had received several death threats from prominent local PLC members prior to the killing. At year's end Hernandez remained in prison but had a pending appeal of his conviction.

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

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law recognizes the right to public assembly, demonstration, and mobilization in conformity with the law and requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. Although the authorities routinely granted such permission, many groups claimed that the process was too cumbersome and marched without registering.

For several weeks in April, thousands of Sandinista-affiliated university students and union members organized violent demonstrations in Managua and other cities to protest increases in transportation costs. Protesters attacked President Bolanos and members of his cabinet with rocks and homemade mortars, injured police officers and bystanders, threw incendiary devices, disrupted traffic, and hijacked and burned buses and government vehicles. Police arrested violent participants, usually releasing them the next day. Several persons, including police officers, were taken to local hospitals and treated for tear gas inhalation and other injuries.

*Freedom of Association.*—The law provides for the right to organize or affiliate with political parties, and the government generally respected this right in practice. Private associations do not have legal status to conduct private fundraising or receive public financial support until they receive authorization from the National Assembly.

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

The government's requirements for legal recognition of a church are similar to its requirements for other private associations (see section 2.b.). A church must apply for legal standing, which the National Assembly must approve. Following assembly approval, a church must register with the Ministry of Government as an association or a foundation.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement within the country and freedom to travel and emigrate abroad, and the government generally respected these rights in practice. The right of citizens to return to the country is not established in the constitution, but the government did not restrict its citizens' return in practice.

Statutory provisions prohibit forced internal or external exile, and the government observed this prohibition in practice. There were no reports of political violence against citizens returning from civil-war-era, self-imposed exile. The constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship in other countries at least four years prior to election or appointment.

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

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

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

*Elections and Political Participation.*—Enrique Bolanos Geyer of the PLC won the presidency in generally free and fair national elections in 2001. In simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party won 1 seat. In a June countrywide poll, 84 percent of respondents stated that they felt that the National Assembly did not represent them in any way.

During the year the National Assembly used controversial charges of fundraising violations by President Bolanos during his 2001 election campaign to pressure the president to negotiate with the assembly on a wide variety of issues in the country's long running institutional conflict. The Organization of American States (OAS) and foreign governments expressed concerns that the political charges against the president and the efforts to remove him from office threatened the constitutional order. In June the National Assembly formed two special commissions to study the charges against the president and several of his ministers who had been members of his campaign team. In September the assembly stripped several cabinet members of their immunity and sent their cases to the judiciary for prosecution on charges of campaign finance irregularities. Assembly leaders publicly stated that the charges were political in nature and intended as a lever in negotiations between the executive and legislative branches of government.

Because of political disputes with the president, PLC and FSLN deputies in the National Assembly enacted several constitutional changes during the year that transferred many presidential powers to the assembly, including control over property restitution, appointment and removal of ambassadors and government ministers, and control of public utilities and the state social security institute. The Bolanos government regarded most of these reforms as unconstitutional and refused to recognize them. In January the Central American Court of Justice declared the reforms an unconstitutional violation of the separation of powers mandated by the constitution. In October based on discussions with the OAS and foreign governments, the National Assembly passed a framework law specifying that the constitutional reforms to strip powers from the presidency would not take effect until a new National Assembly and presidential administration took office in January 2007 and had the opportunity to accept or reject the reforms.

Although the law provides that the Supreme Electoral Council (CSE) is an independent fourth branch of government, the CSE was highly politicized, subject to political influence, and did not function properly throughout the year. During 2004 nationwide municipal elections, which were marred by serious irregularities, there were credible allegations that the CSE invalidated results in key precincts to ensure that several close races were won by the PLC and FSLN. The CSE had previously attempted to deny legal status to parties other than the PLC and FSLN (see section 5). Growing doubts about the impartiality of the CSE led to increasing rates of voter abstention in recent elections.

There were 22 women in the 90-seat National Assembly and 4 women on the 16-member Supreme Court.

Two members of the National Assembly claimed indigenous heritage. In July President Bolanos named Javier Williams Slate, a member of the Miskito indigenous group, as vice foreign minister.

*Government Corruption and Transparency.*—The government continued its anticorruption campaign during the year, but its efforts were hampered by corruption and politicization in the judiciary, which dismissed a large number of controversial cases and released from confinement Byron Jerez, one of only two former government officials successfully prosecuted for corruption. In March Sandinista criminal court judge Edgard Altamirano refused to consider evidence of corruption and absolved Jerez for his role in the looting of the Nicaraguan Industry and Commerce Bank (BANIC) and lifted a 2003 judicial order preventing Jerez from leaving the country.

Sandinista appeals court judges Enrique Chavarria and Silvia Rosales also overturned Jerez's conviction and 8-year sentence in another corruption case, which involved 157 checks that Jerez personally wrote as director of taxation to shell companies that he had personally established. Media reports suggested that Jerez had bought his freedom via large payoffs to the Sandinista judges, Daniel Ortega, and other FSLN leaders.

Throughout the year National Prosecutor Julio Centeno Gomez, a personal friend of former President Aleman, refused to consider Panamanian evidence of the former president's corruption. Gomez actively obstructed Panamanian efforts to charge Aleman with money laundering in that country by refusing to deliver Panamanian judicial notices to Aleman and obstructing the efforts of the attorney general to do so. There was a widespread public perception of corruption and political deal-making in many state institutions, including the judiciary, the National Assembly, the CSE, the Office of the Controller General, the Office of the Human Rights Ombudsman (PDDH), and the Office of the National Prosecutor.

Although the constitution provides for public access to government information, no law defines a mechanism for the transmission of the information. There were no formal procedures for requesting information, explaining why access to information was denied, or appealing the denial of a request for access. In practice the government sometimes provided such access for citizens and noncitizens.

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

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

The autonomous, government-financed PDDH struggled with budget shortfalls, party politicization, and political infighting between Ombudsman Omar Cabezas of the FSLN and Deputy Ombudsman Adolfo Joaquin Ortel of the PLC. Cabezas, a former Sandinista guerrilla in the 1970s and a state security official in the 1980s, used the PDDH to promote the FSLN political agenda and staffed the office with FSLN party members. In July and August, leaders of several indigenous people's organizations, including the Miskito organization Yatama, publicly announced their intent to bring a lawsuit alleging human rights violations against Cabezas and several other leaders of the former Sandinista regime for actions involving indigenous communities during the 1980s (see section 5).

There were special ombudsmen for children's issues, women's issues, and indigenous affairs within the PDDH. In April Special Ombudsman for Children's Issues Carlos Emilio Lopez resigned his post, and in July and October the special ombudsmen for indigenous issues and women's issues resigned as well. All publicly stated at the time of their resignations that Cabezas has made it impossible for them to perform their jobs.

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

Although the law prohibits discrimination on the basis of race, gender, disability, language, or social status, the government made little effort to combat discrimination. Few discrimination suits or formal complaints were filed with government officials.

*Women.*—The most prevalent violations of women's rights involved domestic and sexual violence, including spousal abuse, which were widespread and underreported. The law criminalizes domestic violence and provides up to six years' imprisonment for those found guilty. The law also provides for the issuance of restraining orders for women who fear for their safety.

In its 2004 report, the government's Women's Institute reported that government agencies provided psychological, medical, social, and legal assistance in 54,725 instances in which women reportedly suffered domestic abuse and noted that 72 percent of the abusers never were arrested. The Women's Institute also reported that 73 percent of cases of violence and sexual abuse against women took place in the home and that the majority of the abusers were spouses or ex-spouses. The NGO Women's Network reported that domestic violence led to the deaths of approximately 50 women per year.

The NNP and local human rights groups confirmed that while police sometimes intervened to prevent domestic violence, prosecutors rarely prosecuted perpetrators because victims allegedly failed to press charges or testify in court. Cases that reached the courts usually resulted in not guilty verdicts due to judicial inexperience and lack of legal training.

The law punishes sexual abuse, including spousal rape, and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between nine months and four years in prison. This penalty is increased to between 3 and 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of the victim. Sexual abuse crimes often went unpunished because victims were reluctant to press charges or testify against perpetrators. The law was not effectively enforced because of insufficient government resources allocated for training prosecutors and judicial officials on the law regarding sexual abuse. According to the NNP, police received 1,212 rape complaints during the first 11 months of the year, compared with 1,327 reported instances of rape in 2004. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape.

The police managed 24 women's commissariats, with at least 1 in each of the country's 17 departments. Whereas each commissariat was located next to a police station and was supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer, a lack of funding limited staff size. The commissariats provided social and legal help to women and mediated spousal conflicts, investigated and helped prosecute criminal complaints, and referred victims to other governmental and nongovernmental assistance agencies. The commissariats reported 9,533 cases of domestic violence and 2,207 cases of sexual crimes for the first half of the year. The government's Women's Institute reported that during the year, 46 NGOs and other members of the Women's Network located in several larger cities provided short-term shelter to battered women.

By year's end the Inter-American Court of Human Rights had not ruled on the 2003 complaint of Zoilamerica Narvaez that the government had denied her due process in 2002 by dropping sexual molestation, harassment, and rape charges against her stepfather, former president Daniel Ortega.

Prostitution is legal for persons 14 years of age and older, although the law prohibits its promotion, including procurement. Prostitution was common, and in Managua most prostitutes worked on the streets, clandestinely in nightclubs and bars, or offered sexual services in massage parlors. A tourism law prohibits the promotion of sex tourism, specifies that travelers engaging in sex tourism will be prosecuted, and calls for the revocation of operating licenses for organizations that promote sex tourism.

Although prohibited by law, sexual harassment in the workplace continued to be a widespread problem. Penalties were negligible, and the government made little effort to enforce the law.

The law provides for gender equality, but discrimination against women persisted. Salaries for male and female workers differed significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advanced more quickly than women. Women constituted the majority of workers in the traditionally low-paid education and health service sectors and were estimated by the government and NGOs to make up two-thirds of the informal economy.

The Office of the Human Rights Ombudsman and the Women's Institute are the two main government offices charged with ensuring the legal rights of women. The Women's Institute is responsible for implementing policies and programs to promote women's rights and interests. Women enjoy the same rights as men, including under family and property law.

*Children.*—Although the government publicly expressed its commitment to children's human rights and welfare, insufficient allocation of budgetary resources prevented the provision of adequate funding to children's programs and primary education. Children 15 years of age and younger constituted approximately 40 percent of the population.

Primary education was free and universal. Although the law provides for compulsory education through the sixth grade, the law was not enforced. According to ministry of education statistics, during the year rates of enrollment were estimated at 80 percent for primary school and 42 percent for secondary school. UNICEF statistics reported that only 29 percent of children complete primary schooling.

Although medical care was often limited, boys and girls had equal access. According to the Ministry of Health, the government devoted 8.6 percent of its budget to child health care.

Violence against children was a significant problem. From January to November, there were an estimated 2,451 cases of physical and sexual assault, 494 cases of statutory rape, 393 cases of kidnapping, and 21 cases of incest against minors. Additionally, 639 minors between 13 and 17 years old were rape victims, 219 minors under age 13 were rape victims, and 85 minors died due to violent crime. The NNP estimated that approximately 66 percent of sexual abuse victims were under the age of 18, and that 30 percent were younger than 13.

Child prostitution was a problem. While the law defines statutory rape as sexual relations with children who are 13 years of age and younger, there is no legal prohibition on prostitution by juveniles 14 years of age and older (see section 5, *Trafficking in Persons*).

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

*Trafficking in Persons.*—The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was evidence that the country was a source area for trafficking in women and girls to other countries for purposes of sexual exploitation. During the year the Ministry of Government's antitrafficking-in-persons liaison office coordinated the government's antitrafficking awareness campaigns for both the public and border police and immigration officials, significantly increasing public and official awareness of the problem. In addition the government operated an antitrafficking unit within the police department. The Foreign Ministry's consular officers in neighboring countries assisted with the repatriation of victims. The Ministry of Government has primary responsibility for combating trafficking.

There were two major trafficking prosecutions during the year, resulting in the conviction of four traffickers. In January authorities charged Daniela de la Asuncion Perez Castillo, Rosa Isabel Perez, Johana Elizabeth Perez Chavarria, and Jackeline Carolina Lopez Martinez with trafficking girls and women to Guatemala for the purpose of sexual exploitation. In April a Managua jury convicted all four women and sentenced three women to eight years in prison; the fourth received a 4-year sentence.

Government officials, NGOs, and other organizations characterized trafficking as a growing problem throughout the region. The government, NGOs, and media periodically reported cases of individual women trafficked to brothels in Guatemala and Mexico by well-organized criminal bands operating throughout Central America. Few cases were documented fully by the authorities, and there were no reliable statistics on the scale of the problem. The two main types of trafficking involved women moved from rural areas to urban nightclubs and massage parlors and women from urban areas, lured to brothels in neighboring countries by offers of legitimate employment.

The women's commissariats and the Ministry of Education conducted a nationwide trafficking awareness campaign at high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. The Ministry of Labor's inspectors conducted inspections of strip clubs several times during the year to ensure that they employed no underage workers.

The government-civil society national coalition against trafficking in persons carried out awareness campaigns, worked to improve coordination between the government and civil society in repatriation cases, and continued to undertake a major survey designed to provide the first reliable statistics on the extent of trafficking.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities, but in practice such discrimination was widespread in employment, education, access to health care, and in the provision of state services. The government did not effectively enforce the law with regard to protection of persons with disabilities. Despite some efforts, such as the creation of a special ombudsman for persons with disabilities during the year, the government's role in helping persons with disabilities was minimal and often was criticized. The government had not legislated or otherwise mandated accessibility to buildings for the persons with disabilities.

The National Council for Rehabilitation of the Ministry of Health addresses the needs of the estimated 535 thousand citizens with some type of disability, few of whom received medical treatment. Government clinics and hospitals provided care for war veterans and other persons with disabilities, but the quality of care was generally poor. During the year the government carried out a public relations campaign calling for greater integration of persons with disabilities in society.

Although the law obliges employers to enter into employment contracts with persons with disabilities, not to let disabilities affect salaries, and to consider persons with disabilities equal to other workers, the law rarely was enforced. Disabilities rights advocates contended that many national and local government officials either were unaware of the laws on equal opportunity or made no effort to put them into effect. Advocates also criticized the civil service law requirement that all government employees be "physically and mentally able," on the grounds that this contradicts constitutional provisions that all persons are equal before the law.

*National/Racial/Ethnic Minorities.*—Various indigenous and other ethnic groups from both the Northern and Southern Autonomous Atlantic Regions (RAAN and RAAS) sometimes linked the government's lack of resources devoted to the Atlantic Coast to discriminatory attitudes toward ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tended to be black and Amerindian, and its religious composition was principally Protestant denominations.

*Indigenous People.*—Indigenous people constituted approximately 5 percent of the country's population and lived primarily in the RAAN and RAAS. The four major identifiable indigenous groups were the Miskito, the Sumo, the Garifuna, and the Rama.

In June the IACHR ruled that the government had violated the rights of the Miskito and Sumo in 2000 when the CSE prevented the primarily indigenous Yatama political party from competing in municipal elections held that year. The IACHR determined that the government must acknowledge its violation of Yatama rights and pay \$80 thousand (1.36 million cordobas) in damages. The government agreed to abide by the ruling.

In July and August leaders of Yatama and other indigenous organizations announced their intent to bring before domestic and international tribunals charges of genocide and crimes against humanity against several former leaders of the Sandinista regime for the Red Christmas operation and other actions taken against the Miskito and other Atlantic Coast indigenous people during the 1980s. Those indicted included former President Daniel Ortega, his brother and former head of the Sandinista army Humberto Ortega, former Sandinista Minister of the Interior Tomas Borge, former Sandinista Director of State Security Lenin Cerna, and Omar Cabezas, former deputy at the Ministry of the Interior and current human rights ombudsman. Yatama leaders stated that they would first take their case to domestic tribunals but if they were denied justice, they would then take bring their complaint to the IACHR. By year's end Yatama had filed a formal complaint with the CPDH human rights NGO requesting its assistance in documenting the abuses to bring formal charges.

Although by law the government is required to consult indigenous people regarding the exploitation of their areas' resources, some indigenous groups and organizations, including Yatama, continued to complain that government authorities excluded Atlantic Coast indigenous people from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Representatives of autonomous regions and indigenous groups regularly complained to the government, media, and NGOs that the government made no effort to invest in infrastructure for the benefit of those who lived there. However, the government gradually implemented a 2004 agreement with local authorities to improve infrastructure in the region, including highway construction, potable water, health care, and education.

The majority of indigenous people in rural areas did not have access to modern health care, and deteriorating roads made medicine and health care almost inaccessible.

sible for many communities. Critics of government policy continued to point out extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast engaged in subsistence fishing, farming, and mining.

*Other Societal Abuses and Discrimination.*—Although sexual orientation is not mentioned specifically, the constitution states that all persons are equal before the law and have the right to equal protection. The law provides specific protections for persons with HIV/AIDS against employment and health services discrimination. During the year there were no reports of police or other authorities perpetrating or condoning violence against persons based on sexual orientation or HIV/AIDS status, and there were no reliable statistics on the extent of societal discrimination based on sexual orientation or HIV/AIDS status. The government undertook minimal effort to address discrimination based on sexual orientation or HIV/AIDS status.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all public and private sector workers, with the exception of those in the military and police, to organize voluntarily in unions, and workers exercise this right extensively. Transportation and agricultural workers were organized into cooperatives, which did not permit strikes. Representatives of organized labor groups criticized cooperatives, noting that they had inadequate grievance procedures, were intended to displace genuine, independent trade unions, and were dominated by employers. According to the Ministry of Labor, less than 10 percent of the work force was unionized.

Employers are legally required to reinstate workers fired for union activity, but they often did not do so. Additionally, the law allows employers to obtain permission from the Ministry of Labor to dismiss any employee, including union organizers, provided the employer agrees to pay double the usual severance pay.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to bargain collectively. While the government protected this right, it often sought to foster resolution of labor conflicts via informal negotiations rather than formal administrative or judicial processes. Companies engaged in disputes with employees must negotiate with the employees' union if the employees are organized. However, the possible existence of more than one union at a place of employment means that several unions, each with different demands, may coexist at any one enterprise. Under the law, management may sign collective bargaining agreements with each union.

Although the law recognizes the right to strike, legal strikes were rare. The labor code requires a majority vote of the workers in an enterprise to call a strike and also requires that before beginning the strike, the union receive approval from the Ministry of Labor. To obtain approval, the union must undertake a good faith negotiation process with management, which the labor ministry maintained was necessary to avoid purely political strikes. Union leaders, however, contended that the process is inappropriately lengthy and resulted in too few legal strikes. In its annual survey, the International Confederation of Free Trade Unions criticized the labor code's strike requirements, noting that since 1996, the government has declared only one strike to be legal.

While the law prohibits retribution against strikers and union leaders for legal strikes, this protection may be withdrawn in the case of an illegal strike. Unions sometimes declared strikes without completing the process, and during the year there were several such strikes by teachers and health care workers. If the Ministry of Labor ruled the strikes illegal, employers took advantage of the situation by firing the striking workers.

With a maximum fine of only \$620 (10 thousand cordobas), fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. In its annual report, the International Labor Organization (ILO) Committee of Experts noted that existing fines were inadequate, and emphasized the need for the government to implement legislation to provide effective monetary sanctions against employer interference in trade union affairs.

There were allegations of violations of the right to organize, most commonly that employers fired employees who were trying to form a union. The Ministry of Labor investigated these allegations and concluded that employers generally acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal or organize a union. Notwithstanding the legality of employer actions, the result was to weaken significantly the Sandinista Workers Central (CST) union in the free trade zones (FTZ).

The FTZ garment factory Mil Colores/Chaprich continued to experience serious labor problems. Union leaders, NGO representatives, and government officials credibly alleged that management fired dozens of workers without cause, failed to

give legally required severance payments to over a hundred others, and used funds taken from worker wages for legally mandated social security and health insurance to pay utility bills. The Ministry of Labor ordered the company to rehire illegally fired workers and meet its financial obligations to employees. By year's end the company had changed management and began to rehire some of the fired workers, provide severance payments to other workers, and pay what it owed to the state health insurance institute.

In February the CST and the management of the FTZ garment factory Nicotex settled a 2004 labor dispute over the firing of workers who attempted to organize a CST branch. The company agreed to rehire all fired union leaders who wished to return, pay the re-hired workers lost wages, and accept a CST union in the factory. The company, however, subsequently forced the resignation of union leaders and issued them severance payments. At year's end the CST union branch had not formed at the factory.

There were no special laws or exemptions from regular labor laws in the 36 FTZs. While many workers in the FTZs were represented by 1 of 27 different union organizations associated with 5 different labor confederations, less than 10 percent of FTZ workers were union members. Not all of these unions had real collective bargaining power. In its annual report, the ILO Committee of Experts expressed concerns that some collective agreements concluded in FTZs in 2001 were still not in force, that no new collective agreements had been concluded in the FTZs, and requested that the government take measures to encourage the negotiation of collective agreements in the export processing zones. Union organizing efforts encountered strong employer opposition in the FTZs. During the year the Ministry of Labor and the management of the government-owned corporation that oversees the FTZs settled disputes at KB Manufacturing and Guanica.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits any type of forced or compulsory labor (although it does not specifically address forced or compulsory labor by children), but such practices occurred in practice (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law provides for the protection of children's rights and prohibits any type of economic or social exploitation of children, child labor was a widespread problem. The law prohibits child labor in areas such as mines and garbage dumps and imposes a maximum fine of \$620 (10 thousand cordobas) for illegal employment of children.

The law permits children from 14 to 16 years of age to work legally with parental permission but limits the workday for such children to 6 hours and prohibits night work. Although the law imposes fines for violators and permits inspectors to close facilities employing child labor, child labor rules rarely were enforced except in the small formal sector due to family economic needs, a cultural legacy of children working in rural areas, and a lack of effective government enforcement of the law.

The government reported that child labor occurred in both urban and rural areas, primarily in the informal sector, including family ventures. In Managua more than six thousand children worked on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children to organizers of child beggars. Thousands of children scavenged in garbage dumps to salvage items to use and sell, and in rural areas children worked on farms and in abandoned mines. Tens of thousands of children also labored as domestic workers. Child prostitution was a serious problem (see section 5).

The Ministry of Labor is responsible for enforcing child labor laws, but the government did not allocate adequate resources to enable the ministry to perform its duties effectively. The ILO, foreign governments, and a number of domestic and international NGOs worked with the ministries of labor and family to curb the most egregious cases of child labor and put children into school. Programs targeted children working in garbage dumps and coffee farms and shifted thousands of children from work to school.

*e. Acceptable Conditions of Work.*—The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. Each key sector of the economy has a different minimum wage, which must be reviewed every six months. A new minimum wage scale took effect in April, raising the minimum wage by 11 to 16 percent, varying by sector. The minimum wage generally was enforced effectively only in the formal sector. The national minimum wage did not provide a decent standard of living for a worker and family. In every sector the minimum wage was below the \$155 (2,602 cordobas) that the government estimated an urban family needed monthly for a basic basket of goods.



Although the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly, this provision was routinely ignored by employers who often claimed that workers readily volunteered to work extra hours for extra pay. While the law mandates premium pay for overtime and prohibits excessive compulsory overtime, these requirements were not always effectively enforced.

The law establishes occupational health and safety standards, but the Ministry of Labor's Office of Hygiene and Occupational Security lacked adequate staff and resources to enforce these provisions, resulting in working conditions that often did not meet international standards. Workers in some factories in the free trade zones complained of poor working conditions, being forced to work unpaid overtime, and being told when they may use the toilet. During the year the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers to identify and resolve workplace hygiene and safety problems. The law provides workers with the right to remove themselves from dangerous workplace situations without jeopardizing their continued employment, but many workers were unaware of this right. There were no new developments, and none were expected, in the Ministry of Labor's 2004 investigation into the deaths of seven workers due to work-related accidents between January and August of that year.

Thousands of individuals claiming to be former banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s (when its use was legal) continued to press the government to take action on their behalf. Between February and May more than one thousand persons staged a march and camped out in a Managua field to draw attention to their claims. The government responded to their concerns by assisting many of them to obtain passports and other travel documents so that they could travel abroad to give testimony in cases pending in foreign courts. At year's end several hundred lawsuits claiming tens of billions of dollars in damages remained pending in domestic and foreign courts.

## PANAMA

Panama, a representative democracy with an elected executive composed of a president and two vice presidents, has a population of approximately 3 million. In 2004 national elections, which were considered by international and domestic observers to be generally free and fair, voters elected as president Martin Torrijos of the Democratic Revolutionary Party (PRD). The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there continued to be serious problems in several areas. The following human rights problems were reported:

- harsh prison conditions, with reports of abuse by prison guards
- prolonged pretrial detention
- judicial system subject to corruption, inefficiency, and political manipulation
- political pressure on the media
- discrimination and violence against women
- trafficking in persons
- discrimination against indigenous people and other ethnic minorities
- child labor

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year there were no reports that the government or its agents committed arbitrary or unlawful killings.

There were no new developments during the year concerning the 2004 request of the Fourth Superior Prosecutor that two off-duty Panamanian National Police (PNP) officers be tried for homicide in the 2001 killings of two men whose bodies were found on the beach in Punta Chame.

There were no developments regarding the Torrijos administration's 2004 communication to the Inter-American Commission on Human Rights regarding its interpretation of a document signed by former president Moscoso in 2004 by which the country accepted responsibility for certain crimes committed during the 1968–89 military dictatorship.

There were no developments in the 2002 petition before the Inter-American Commission on Human Rights regarding the 1970 disappearance and death of Heliodoro

Portugal or the ordered detention of Ricardo Garibaldo in connection with Portugal's death. Garibaldo's whereabouts were unknown at year's end. It was believed that he fled the country in 1990 or 1991.

The Office of Truth Commission Continuation's solicitation of the opening or re-opening of 16 cases and continued pursuance of 17 other cases of killings during the 1968–89 military dictatorship remained ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Ana M. Gomez, who was appointed attorney general in January, named a temporary prosecutor to follow up on the Truth Commission Continuation's 2004 request to investigate 33 cases of killings or disappearances during the 1968–89 military dictatorship. There were no new developments regarding the identification of 16–20 human bodies found buried on the former penal island of Coiba. The Truth Commission Continuation continued to lack funds to conduct DNA tests to identify the remains and the area continued to be unguarded.

There were no reports of kidnapping, rape, or harassment by Colombian insurgents in Darien or Kuna Yala provinces.

There were no reports of politically motivated disappearances

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Prison guards occasionally abused inmates. While admitting there were complaints against prison guards, the PNP's Professional Responsibility Office (DRP) did not provide statistics on the number of complaints of alleged police abuse against prison inmates.

As of the end of June, the PNP was investigating 26 cases of spousal rape by PNP officers.

In March four high-ranking PNP officers stationed in Darien Province were detained on charges of sexual abuse of minors. At year's end parallel investigations were ongoing at the Public Ministry and the PNP (see section 5).

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and, in some cases, life-threatening. By December the prison system, which had an official capacity of 7,213 persons, held 11,748 prisoners. Most prisons remained dilapidated and overcrowded. Many of the problems within the prisons continued to be due to lack of separation of inmates according to the type or severity of the crime committed.

Abuse by prison guards, both PNP and civilian, was a recurrent problem. Police officials received and investigated 34 cases of alleged abuse by prison guards from January through June.

The Association of New Men and Women of Panama, a gay and lesbian rights group, reported that there were at least two attempted killings of gay inmates by other inmates during the year. It was unclear whether these incidents were under investigation.

Medical care for prisoners was inadequate. AIDS, tuberculosis, and other communicable diseases were common among the prison population.

During the year the La Joya and La Joyita prisons continued to experience water shortages. Although authorities made renovations, the water system only worked two hours each day. The European Union continued to fund some legal, medical, and dental staff for prisons. There was at least one doctor in each major facility. As of mid-September, 16 inmates had died.

The General Penitentiary Inspection Directorate (DGSP) replaced 60 civilian correction officers who resigned or were fired.

The DGSP largely depended on 1,500 PNP officers to supply both internal and perimeter security at all prisons. There were 440 custodians for the entire prison system, which necessitated the use of regular PNP officers to fill staffing gaps. PNP officers sometimes were untrained for prison duty and reportedly found the assignment distasteful, which contributed to tension and abuses within the prison system. In prisons controlled by the PNP, prisoners complained of ongoing human rights violations, such as limited time outside of cells and limited access to family visits. Civilian custodians handled inmates within Nueva Esperanza, Tinajitas, El Renacer, and the central women's prison, which used only female guards. The DGSP did not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board could sanction a PNP agent or a custodian.

The main prisons in Panama City included La Joya (a maximum-security facility), La Joyita, Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. An additional facility, El Renacer, held inmates generally accused of less serious crimes. Despite a 2004 ombudsman's office recommendation that the government begin closing La Chorrera prison due to overcrowding and unsanitary conditions, the government had not done so by year's end.

In June an inmate at La Chorrera was killed by a cellmate. An investigation by the prison authorities determined that the killing was an act of self defense.

Small jails attached to local police stations around the country sometimes held prisoners for the entire length of their sentences, but the police who guarded them lacked the necessary custodial training to prevent abuses.

Female prisoners were held separately from male prisoners, and juveniles were held separately from adults. In Nueva Esperanza prison in Colon province, both male and female pavilions had separate sections for inmates convicted of administrative felonies and those convicted of violent crimes. Pretrial detainees often shared cells with sentenced prisoners due to lack of space. A pilot program for inmate classification was initiated in the El Renacer prison.

Even though conditions at women's prisons and at juvenile detention centers were noticeably better than at adult male prisons, female prisoners, especially in primary detention areas, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

With the exception of one modern facility near Panama City, juvenile pretrial and custodial detention centers throughout the country suffered from inadequate resources to provide for education or supervision. An NGO provided classes on arts and crafts and sewing to some minors in detention.

The law's conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentences were not implemented consistently. During the year the government granted 750 conditional releases to inmates who had served two-thirds of their sentences. By September more than two thousand inmates who had served two-thirds of their sentences remained in prison.

Although the government generally allowed prison visits by independent human rights observers, during a July visit by a Catholic priest, media representatives complained that prison security guards mistreated them and temporarily confiscated their cameras. Prison authorities claimed that media representatives had not requested clearance for the equipment ahead of time as stipulated in procedures. The ombudsman's office had an established prison visit program, and the government generally allowed ombudsman staff to speak with prisoners without monitoring. Prisoners expressed fear of retaliation if they complained. *Justicia y Paz*, the Catholic Church's human rights monitoring group, brought prison abuses to the attention of the authorities. The Association of New Men and Women of Panama alleged that prison authorities denied two requests by the organization during the year to conduct AIDS education and training in prisons.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The law permits exceptions when an officer apprehends a person during the commission of a crime or when an individual interferes with an officer's actions. Whereas the law provides that suspects be brought promptly before a judge, lack of prompt arraignment continued to be a problem. The law requires arresting officers to inform detainees immediately of the reasons for arrest or detention and of the right to immediate legal counsel. There is a functioning bail system, and detainees were allowed prompt access to family members. Police arrested and detained children for minor infractions during neighborhood sweeps (see section 5).

*Role of the Police and Security Apparatus.*—The Judicial Technical Police (PTJ) and PNP are the only police agencies in the country. Although its primary mission is law enforcement, the PNP is also detailed for prison and border security. The country had no army. The PNP is under the civilian authority of the Ministry of Government and Justice. There were approximately 15,270 police officers. The PTJ, a semiautonomous body under the Office of the Attorney General with leadership appointed by the Supreme Court of the Republic, was a separate branch of law enforcement and performed criminal investigations in support of public prosecutors. The law includes specific guidelines for the use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. Although the PNP provided some training during the year, not all PNP staff members were trained in the use of force. The Office of the Ombudsman (Defensoria del Pueblo) provided human rights and legal training to PNP officers assigned as prison guards. An additional 57 members of the PNP attended various training courses abroad.

The PTJ and the PNP had offices that held officers accountable for their actions. Both had staffs of independent investigators, administrative authority to open internal investigations, and a defined legal process.

The PNP's deputy director and the secretary general addressed human rights problems that arose in the police force. The PTJ office received an average of 21 complaints per month up to June. The human rights ombudsman also received com-

plaints against the police for abuse of authority but did not provide statistics (see section 4). As of June the PNP Office of Professional Responsibility had received 399 complaints (including 94 cases of improper behavior and 78 cases of physical mistreatment), an average of 16 complaints per week, an increase from 10 per week in 2004. Through mid-June, the office imposed penalties on 100 officers, including reductions in rank, criminal prosecutions and dismissals.

In March authorities detained four high-ranking PNP officers stationed in the Darien Province on charges of sexual abuse of minors. As of August parallel investigations were ongoing at the Public Ministry and the PNP (see section 5). At year's end, one of the officers had been dismissed from the PNP and the other three remained under investigation.

The PTJ received complaints from the public, and officers could make anonymous complaints of corruption and other problems. By June the PTJ Office of Professional Responsibility had conducted 128 investigations, resulting in the dismissal of 16 agents.

Corruption among police officers remained a problem. Although PNP and PTJ directors sometimes enforced disciplinary measures against officers with proven involvement in illicit activities, in general both organizations took corrective actions only in reaction to cases of egregious abuses. In March authorities suspended and requested the dismissal of PTJ Deputy Director General Eric Bravo on charges of manipulating an investigation to favor several personal friends. As of December the Supreme Court of Justice had not ruled on the issue, and Bravo remained suspended.

*Arrest and Detention.*—The law provides for judicial review of the legality of detention, mandates the immediate release of any person detained or arrested illegally, and prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. The preliminary investigation phase may last from eight days to two months and the follow-on investigation phase another two to four months, depending on the number of suspects. The courts frequently granted extension of time limits, leaving the accused in detention for long periods without formal charges. Many observers, including court officials, criticized judges for excessive use of this measure. While the law provides for bail, judges often declined to grant it. Detainees were allowed prompt access to legal counsel and family members, and the government provided indigent defendants with a lawyer.

There were no reports of political detainees.

Extended pretrial detention continued to be one of the most serious human rights problems, due in part to the elaborate notification phase in criminal cases. According to government statistics, 7,300 prisoners, or approximately 63 percent of the prison population, were pretrial detainees. The average period of pretrial custody was 24 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judicial system was susceptible to corruption and outside influence, including manipulation by other branches of government. The president appoints 9 supreme court of justice magistrates to 10-year terms, subject to national assembly ratification. Supreme court magistrates appoint appellate (superior tribunal) judges, who appoint circuit and municipal court judges in their respective jurisdictions. Although judicial appointments were supposed to be made under a merit-based system, the system was undermined by political influence and interference by higher-level judges.

At the local level, mayors appoint administrative judges (*corregidores*), who exercise jurisdiction over minor civil cases and who hold wide powers to arrest and impose fines or jail sentences of up to one year. Outside of Panama City, this system had serious shortcomings. Defendants lacked adequate procedural safeguards. Administrative judges usually were not attorneys, had not completed secondary education and in some cases, were corrupt. In practice, appeal procedures were nonexistent. Affluent defendants often paid fines while poorer defendants went to jail, contributing to prison overcrowding (see section 1.c.).

*Trial Procedures.*—The law provides that all citizens charged with crimes have the right to counsel, to be presumed innocent until proven guilty, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused may be present with counsel during the investigative phase of the proceeding.

Trials are open to the public. The law provides for trial by jury at the defendant's election but only in cases where at least one of the charges is murder. Judges may order the presence of pretrial detainees for the rendering or amplification of statements or for confronting witnesses. Trials were conducted on the basis of evidence

presented by the public prosecutor. Whereas defendants have the right to be present and to consult with an attorney in a timely manner, the law sometimes permits trials without the accused being present. Defendants can confront or question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal.

The law obliges the government to provide public defenders for the indigent. However, many public defenders were appointed late in an investigation, after the prosecutor already had evaluated the bulk of the evidence and decided either to recommend trial or to dismiss the charges. Public defenders' caseloads remained extremely high, averaging over 500 cases per attorney per year.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Whereas the law prohibits such actions and the government generally respected these prohibitions in practice, there were complaints that in some cases, law enforcement authorities failed to follow legal requirements and conducted unauthorized searches.

In an effort to prevent unauthorized searches, the Public Ministry placed a representative, whose job was to approve searches, in each of the PTJ's divisions.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press. Individuals had complete liberty of expression, and there were no attempts to impede it. In the past the government and public figures used libel and disrespect-for-authority laws to confront and intimidate journalists who allegedly behaved irresponsibly or besmirched the honor of a particular government institution or leader. The ombudsman's office reported that during the year, no journalists or reporters were charged with criminal libel or injury; 15 persons were charged under these laws in 2004.

The independent media were active and expressed a variety of views without restriction. The government owned one educational television station (RTVE/11) and one radio station (Radio Nacional). The law prohibits newspapers from holding radio and television concessions, and vice versa.

On June 29, the government eliminated "gag laws," but pending legal actions remained against many journalists. The IAHCR, the Inter-American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press. There continued to be no reform of the law regarding criminal libel.

At year's end there remained pending approximately 15 libel cases against journalists, including that of former agricultural minister Linenette Stanziola Apoloya against journalists Rafael Berocal and Sady Tapia. On August 17, the Marcel Chery and Gustavo Aparicio cases reappeared on the court docket.

In August supreme court of the republic justice Winston Spadofora filed a \$2 million (2 million balboas) civil damage lawsuit against journalists from *El Panama America* for reporting the construction of a private road near Spadofora's house using public funds. High-level officials, including the president, expressed concern regarding the motivations and consequences of such lawsuits.

In June President Torrijos signed and executed Law 22 abolishing the censorship board, which had monitored radio transmissions and had been authorized to sanction stations that violated norms regarding vulgar, profane, or obscene language.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. There was one case of police abuse reported during May and June demonstrations against social security reforms. The police agent involved received an administrative reprimand for unnecessarily striking a demonstrator with a baton.

There were concerns about insufficient police presence at a June 24 gay pride march. Although police authorities permitted the march to take place, they assigned only one police officer to cover the event, in contrast to customary police practice at other marches where enough police were sent to protect marchers and direct traffic.

There were no further developments in cases relating to police brutality allegedly inflicted on 22 detainees held in connection with a 2004 incident in Bocas del Toro. During that incident, more than 28 persons were injured, including 24 police officers, when antiriot police attempted to open roads closed by residents demonstrating against the local private utility company (see section 1.d.).

*c. Freedom of Religion.*—The law provides for freedom of religion on condition that “Christian morality and public order” are respected, and the government generally respected this right in practice.

The law prohibits clerics from holding public office, except positions related to social assistance, education, or scientific research. Roman Catholicism enjoyed certain state-sanctioned advantages over other faiths, including the teaching of Catholic theology in public schools. Parents, however, had the right to exempt their children from religious instruction.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was a Jewish population of approximately 10 thousand persons.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice. A 9:00 pm curfew instituted in 2004 for unaccompanied minors in the Panama City and San Miguelito areas remained in effect.

The law prohibits forced internal or external exile, and there were no reports of its use.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government sometimes granted refugee status or asylum. A 1998 decree grants protection to all persons entering the country due to “state persecution based on race, gender, religion, nationality, social group, or political opinion.” The decree grants two months’ temporary protection to “displaced persons” in the case of a large influx; however, in practice, the government did not enforce the 2-month time limit. The 1998 decree provides for a meeting by the government’s refugee commission every three months to determine the status of persons seeking refugee status. The commission met in April and August and granted asylum to 40 persons.

According to the Office of the UN High Commissioner for Refugees (UNHCR), there were 533 displaced Colombians under temporary protective status in the country. Many of them had given birth to children in the country. The government did not permit displaced Colombians to move or work outside of their assigned villages. Although the government was reluctant to classify displaced Colombians as refugees, it took some steps with the government of Colombia and UNHCR to regularize the status under other immigration categories of Colombians, some of whom had lived in the country for years without formal refugee status.

In July the UNHCR stopped providing food for displaced persons and reassigned these funds for training refugees in baking, sewing, planting crops, and other skills. The Catholic Church and NGOs continued to assist the displaced Colombians with infrastructure and income generating projects. The International Committee of the Red Cross continued to provide some limited assistance to the approximately 40–50 displaced Colombians living in the remote Alto Tuira border area. The 533 displaced Colombians who remained in the country informed the government and the UNHCR that they did not want to return to Colombia due to current family and cultural ties with local communities.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Pursuant to a 2004 agreement with the government, UNHCR had a permanent office in Panama City and was granted unimpeded access to refugees and UNHCR project sites. In July the UNHCR closed its regional office in Darien.

Authorities continued to refuse entry to Colombians who arrived by air and could not show that they had at least \$500 (500 balboas).

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The law provides for direct popular election by secret ballot of the president, the vice president, legislators, and local representatives every five years. Naturalized citizens may not hold certain categories of elective office. The independent Electoral Tribunal arranges and supervises elections.

*Elections and Political Parties.*—Democratic Revolutionary Party (PRD) candidate Martin Torrijos won the presidency in 2004 national elections characterized by domestic and international observers as generally free and fair.

The law requires new political parties to meet strict membership and organizational standards to gain official recognition and participate in national campaigns. The law also requires political parties to be structured democratically, permits independents to campaign for the National Assembly, increases the autonomy of the Electoral Tribunal, and limits the immunity of representatives in the National Assembly by permitting the Supreme Court of Justice to prosecute criminal cases against representatives.

Women held 11 of 78 National Assembly seats. There were 2 women in the 13-member cabinet and 2 female judges on the Supreme Court of Justice, one of whom was appointed Chief Justice. In January a woman was appointed attorney general. Among ethnic minorities, there was one black male in the cabinet and on the Supreme Court of Justice, and there were dedicated seats for two Kuna Yala *comarca* and three Ngobe-Bugle *comarca* legislators in the National Assembly. In addition to the five dedicated seats, Bocas del Toro elected one Ngobe legislator to the National Assembly. Neither the Madugandi nor the Embera-Wounaan reserve had its own dedicated legislators.

*Government Corruption and Transparency.*—Public perceptions of executive and legislative corruption remained high. A poll conducted during the year identified corruption as the third greatest national problem after unemployment and the high cost of living. In comparison with previous years, there were fewer hindrances to judicial follow up of accusations of corruption against members of the National Assembly. A National Anti-Corruption Commission was established by the Torrijos administration in 2004. The government continued to audit accounts on an agency level, rescind improperly granted diplomatic passports, dismiss employees for malfeasance, and bring charges against officials for petty corruption.

The transparency law provides public access to information from and about public entities, with the exception of cabinet meeting minutes. The solicitor general, however, narrowly interpreted the constitution to limit disclosure by notaries of statements of assets held by public officials.

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

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

The ombudsman's office, headed by Juan Antonio Tejada Espino, had moral but no legal authority. The ombudsman's office operated without government or party interference and had adequate resources. The government cooperated with the ombudsman, who was considered effective. During the year the office received complaints against the government.

Attorney General Ana M. Gomez, who was appointed in January, named a temporary prosecutor to follow up on the 2004 request by the Office of Truth Commission Continuation to investigate 33 cases of killings and 25 cases of disappearance during the dictatorship that ended in 1989 (see sections 1.a. and 1.b). The Public Ministry assigned special funds to support excavations and investigations into the 1971 disappearance of Colombian-born Catholic priest Hector Gallego. The Truth Commission questioned why this particular case received special funding while other cases received no additional resources.

#### *Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, gender, disability, language, or social status and the government effectively enforced these prohibitions in practice. Societal prejudices persisted. Although the law specifically prohibits discrimination involving entry to public or commercial establishments and sets fines from \$250 to \$1 thousand (\$250 to \$1 thousand balboas) for violations, many commercial establishments continued openly to operate a "right of admission" policy, discriminating against dark-skinned persons. Cases of discrimination were difficult to prove, and legal remedies were complicated and time-consuming for victims.

*Women.*—Domestic violence against women continued to be a serious problem. Approximately three thousand cases of domestic violence are reported to the PNP each year. The Family Code criminalizes rape, spousal rape, and family violence, including psychological, physical, or sexual abuse, and provides prison terms of one to five years. Convictions for rape were rare. There also were few convictions for domestic violence because victims generally chose spousal therapy over prosecution. Abusers

were commonly convicted of unintentional killing in cases of spousal death. By June the PTJ registered 911 cases of domestic violence. The PTJ also recorded 352 cases of rape and 81 cases of attempted rape by June. At year's end the PNP's DRP reported that its office investigated cases of domestic violence and rape committed by officers during the year. As of June 30, the PNP was investigating 26 cases of spousal rape committed by PNP officers.

The Support Center for Abused Women (CAMM) operated one temporary shelter for abused women and children funded by private donations and staffed by volunteers. The shelter did not serve women who had been abused outside of the domestic relations context. CAMM also provided domestic violence victims with health and legal services, counseling services for women and their domestic abusers, and a hotline.

The Foundation for the Promotion of Woman (FUNDAMUJER) and the Center of Colon Women (MUCEC), among other women's advocacy groups and government agencies, operated programs to assist victims of abuse and to educate women on their legal rights.

Prostitution was legal and regulated, but there was no information available on the extent to which it occurred.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in cases of established employer/employee and teacher/student relations, and violators can receive 1- to 3-year prison sentences. The extent of the problem was difficult to determine because convictions for sexual harassment were rare, and pre-employment sexual harassment was not actionable. Due to the few cases brought before the courts, effectiveness of law enforcement could not be judged.

The law prohibits discrimination on the basis of gender, and women had the same rights as men, including rights under family law, property law, and the judicial penal system. The law recognizes joint or common property in marriages, but the government did not allocate sufficient resources to enforce the law effectively.

The law mandates equal pay for men and women in equivalent jobs, but women on average received wages that were 30 to 40 percent lower than those received by men. Although women constituted the majority of workers in many service jobs such as office workers (72 percent), teaching (71 percent), and hotel and restaurant work (58 percent), women occupied only 40 percent of management and executive positions. There were some reports of irregular hiring practices based upon age and appearance.

Unlike in previous years, there were no reports of discrimination against female politicians.

The Ministry of Social Development, through the National Directorate of Women, promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms. A number of private women's rights groups disseminated information about the rights of women, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

*Children.*—The government was committed to children's rights and welfare. Education is compulsory through the ninth grade and the law establishes free public education through high school. Children did not always attend school due to traditional attitudes, financial and economic constraints, lack of transportation, too few secondary schools, and insufficient government resources. The problem was most extreme in Darien Province and among indigenous groups. According to the 2000 census, 65 percent of children nationally between the ages of 15 and 19 had some schooling beyond sixth grade. In the Embera and Ngobe-Bugle *comarcas*, however, approximately 18 percent of children in the same age group had schooling beyond sixth grade.

Schools did not differentiate in their treatment of boys and girls. School attendance figures were identical for boys and girls through elementary school. Beginning at the junior high level, more girls attended school than boys (130 thousand vs. 125 thousand).

The government furnished basic health care for boys and girls on an equal basis through local clinics run by the Ministry of Health, but clinics were difficult to reach from rural areas and often lacked medicine. Malnutrition and inadequate medical care were generalized problems, and were most severe among rural indigenous groups. A central children's hospital in Panama City operated with government funds as well as private donations. In June the government held health fairs around the country to provide children with vaccinations, dental exams, and medical check-ups.

By June the PTJ registered 150 cases of child abuse and neglect. Sexual abuse, including incest, accounted for 111 of these cases. Lack of reporting remained a



problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities. The Public Ministry and PNP conducted investigations regarding the detention of four high-ranking PNP officers stationed in Darien Province on charges of sexual abuse of minors (see section 1.d).

By August the Ministry of Social Development had received 1,073 complaints regarding the physical abuse of children. During the year the ministry established a free phone line for psychologists and social workers for children to report abuses. The ministry also implemented a television campaign encouraging its use. The ministry received more than 35 thousand calls mainly related to physical abuse 14,038 and sexual abuse 1,995. Victims were directed to police authorities, hospitals, and protection centers for support. Child neglect was a problem.

Due to inadequate government resource allocations and training, family courts continued to render controversial decisions, including the return of children to abusive situations. By December the juvenile penal courts in Panama and Colon provinces reported 925 new cases against juveniles.

Gang recruitment of minors by young adults was an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps. Trafficking in children and child labor were problems (see sections 5, Trafficking and 6.d.).

*Trafficking in Persons.*—The law prohibits trafficking in men, women, and children. However, there were reports that persons were trafficked to, from, or within the country. The magnitude of the problem was difficult to determine because the country was a transit point for illegal economic migrants who were not forced into prostitution or debt bondage, but who used the same routes as smugglers.

The Ministry of Government and Justice (MOGJ) is responsible for developing policies to reduce trafficking in persons, and the Ministry of Social Development (MIDES) has responsibility for protecting victims through shelters and related services. The PTJ's Sex Crimes Unit is charged with investigating and arresting persons involved in trafficking.

The law penalizes trafficking and pornography, and proscribes the promotion of sex tourism and use of the Internet for soliciting victims for trafficking and sexual exploitation. Persons who engage in human trafficking for purposes of sexual activity can receive five to eight years in prison, or in the case of a minor, eight to ten years. The law eliminates the need for a complaint to initiate an investigation, and permits undercover operations and the monitoring of suspects' computers in sex crime cases. The National Committee for the Prevention of Sexual Crimes (CONAPREDES) provided additional funding for combating trafficking and for victims' assistance. However, a proposal to fund CONAPREDES through a tax on the rental of adult videos or through the airport departure tax was not adopted by year's end.

The government allocated inadequate funding and resources to the PTJ sex crimes unit. As of May the PTJ's sex crimes unit had investigated six cases of sexual trafficking, six cases of child pornography, and two cases of procurement of persons for commercial sexual activities. During the year there were no arrests for sexual exploitation or sexual tourism. The prosecutor's office initiated its own investigations, but the government provided it with inadequate resources to conduct undercover investigations or to perform its other duties. The Public Ministry learned about one case involving child pornography only because of a request for information from INTERPOL. Information sharing between the government and other countries occurred but needed to be strengthened, as did coordination among the PTJ sex crimes unit, the PNP, and immigration authorities.

The country was a destination point for trafficked women. There was evidence that rural children were trafficked internally to work as domestic servants in urban areas. Colombia remained the primary country of origin for trafficked women, followed by the Dominican Republic. Although many Colombians and Dominicans came willingly to the country, apparently intending to become prostitutes, anecdotal evidence suggested that some were forced to continue as prostitutes after they wanted to end involvement.

The country was a transit point for Colombian sex workers to other Central American countries and the United States. Although some of these women were assumed to be trafficking victims, the government could not verify numbers. Alien smuggling remained a widespread problem, with most aliens coming from Ecuador, Peru, Colombia, China, and India, and transiting the country by means of smuggling networks enroute to the United States. Some were trafficked for debt bondage, including Chinese debt bondage within the country.

The PNP and the Immigration Department conducted raids every two to three months on bars and brothels, but lack of government funding limited undercover op-

erations. In May authorities arrested and charged with procurement a foreign national who owned a club with female dancers. At year's end the defendant was free on \$15 thousand bail and was required to remain in the country while the case was under investigation. In May the Immigration Department and the PTJ sex crimes unit investigated a massage club where Colombian workers complained that the owners seized their passports. In many of the cases investigated for possible trafficking violations, defendants alleged that the purported trafficking victim could not have been trafficked because that person entered the country as a visitor and then applied for an *alternadora* visa. The holder of an *alternadora* visa is legally permitted to engage in commercial sexual activities. During the year despite opposition from the attorney general's office, the Immigration Department reinstated the *alternadora* visa.

Commercial sexual exploitation of minors continued to be a problem. Commercial sexual exploitation remained primarily an internal issue. However, perpetrators included foreigners, and there continued to be limited evidence of international trafficking networks of minors to or through the country. NGO and government efforts in prevention and education remained limited by lack of resources and coordination problems.

The law does not hold trafficking victims criminally responsible for prostitution or immigration crimes and provides for indemnification of costs of medical and psychological treatment, temporary housing, legal fees, and emotional suffering, even if the victims return to their native country.

The Ministry of Social Development continued providing shelter and other services to victims of commercial sexual exploitation, using substitute families, its own shelter, and the shelter of a nongovernmental organization it subsidized.

During the year the government worked with the International Labor Organization (ILO) on trafficking issues, including the production of pamphlets on sexual exploitation and trafficking. In May the ILO held a workshop for 40 media representatives to educate them about trafficking and the need to protect victims' identities. In October the government published its first Anti-TIP manual for police and other government officials.

*Persons with Disabilities.*—The law prohibits discrimination based on physical or mental disability, but substantial discrimination continued against persons with disabilities in employment, education, access to health care, and the provision of other state services. Most public schools did not have adequate facilities for children with special needs. However, the government took some steps, including installing ramps in schools and some mainstreaming of children with disabilities, to decrease discrimination. The law mandates access to new or remodeled public buildings for persons with disabilities and requires that schools integrate children with special needs. During the year approximately 65 public schools built ramps and admitted deaf, blind, and mildly mentally-retarded children, as well as children with Down's syndrome. Children with severe physical disabilities were not included in the mainstreaming effort. Private schools built ramps to comply with the law mandating access, but very few admitted children with special needs.

The National Secretariat for Social Integration of the Disabled (SENADIS), formed in September 2004, was responsible for protecting the rights of persons with disabilities. It coordinated and provided technical assistance to government and civil society efforts to decrease discrimination against and increase inclusion of persons with disabilities. The Council for the Social Integration of the Disabled supported the secretariat and was composed of members of civil society and several ministries. The Ministry of Education was responsible for educating and training minors with disabilities over the age of four, while the Ministry of Social Development provided training to children under four.

The government ruled that as of August persons with disabilities would receive free medical treatment at all public hospitals and clinics. The Ministry of Labor was responsible for placing workers with disabilities in suitable jobs. Despite a 1999 law requiring mandatory employment of at least two percent disabled personnel, placement remained difficult due to employer reluctance to hire workers with disabilities. Persons with disabilities also tended to be paid less than employees without disabilities for performing the same job.

Panama City's building code requires that all new construction projects meant to serve the public be accessible to persons with disabilities, with fines for the public sector from \$100 (100 balboas) to \$500 (500 balboas) for noncompliance. A national law with similar requirements for new construction projects generally was not enforced, and in some cases the ramps built did not comply with the minimum legally required lengths and widths. Also, some handicapped designated parking spaces were not wide enough to allow for exit and entry of wheelchairs. The Secretariat began a campaign to increase voluntary compliance.

Awareness of disability issues increased under the Torrijos administration, and commercial establishments more regularly provided and enforced respect for handicapped parking spaces. By year's end the government was developing a national plan for addressing disability issues. However, basic amenities, such as handicapped-accessible sidewalks and bathrooms, were largely unavailable.

*National/Racial/Ethnic Minorities.*—Minority groups generally have been integrated into mainstream society, but there remained problems with discrimination against blacks, indigenous people, and other minorities. Discrimination against the country's newer immigrants, especially Chinese, sometimes was overt. There were an estimated 150 thousand to 200 thousand persons of Chinese descent. Cultural differences and language difficulties hindered many Chinese immigrants from fully integrating into mainstream society. Racial slurs directed at Asians continued to be used openly among the general population, and substantial numbers of first-generation resident Chinese frequently were treated as second-class citizens. However, second and third generation Chinese were seen as distinct from recent immigrants and generally were accepted in society if they assimilated.

Along with the Chinese, Middle Eastern and Indian residents also continued to suffer from racially motivated discriminatory treatment. All three groups often worked in the country's retail trade, particularly in urban areas. Legal and illegal immigrants were accorded fewer legal protections than citizens for their trade activities. A constitutional provision reserving retail trade for Panamanian citizens was not enforced in practice; however, immigrants legally could not own their businesses as sole proprietorships and sometimes encountered bureaucratic difficulties in practicing their professions.

Racism against blacks was generally subtle, and often connected with admission or entry to restaurants, clubs or other commercial establishments. Blacks comprised at least 14 percent of the population, but were underrepresented in the highest positions of political and economic power. Many blacks remained clustered in the economically depressed province of Colon and poorer neighborhoods of Panama City.

The country's lighter skinned elite discriminated against citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector.

Racial discrimination against minority ethnic groups was evident in the workplace. In general, lighter skinned persons were represented disproportionately in management positions and jobs that required dealing with the public, such as bank tellers and receptionists. In response to complaints about discrimination, in March the president formed the Black Ethnic Commission, with a one year mandate to develop a plan for more effective inclusion of blacks in all aspects of society.

*Indigenous People.*—The law affords indigenous people the same political and legal rights as other citizens, protects their ethnic identity and native languages and requires the government to provide bilingual literacy programs in indigenous communities. Indigenous people, who comprise approximately 9.5 percent of the population, have the legal right to take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. There were indigenous reserves, governed by tribal chiefs, for five of the country's seven indigenous groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. The much smaller Bri-Bri and Naso tribes, residing near the border with Costa Rica, did not have officially recognized enclaves.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Although federal law is the ultimate authority on indigenous reserves, local groups maintained considerable autonomy. The government recognized traditional Kuna marriage rites as the equivalent of a civil ceremony. Laws protect intellectual property rights of indigenous artwork and establish regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally had higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. The poverty rate among the indigenous population was estimated at between 90 and 98 percent, depending on the group.

With the exception of the Kuna Yala, whose leaders enforced their territorial boundaries and maintained their cultural integrity, indigenous groups had not succeeded in using their autonomy to preserve their culture or develop economic independence.

Because many indigenous persons did not have an adequate command of Spanish, they often misunderstood their rights and failed to employ legal channels when threatened. In addition, the government did not provide legal tribunals in indigenous areas and failed to attend to specific indigenous property and resource use rights problems: the Kuna of *comarca* Madugandi complained of encroachment by settlers who were deforesting the *comarca*. In October residents of the Kuna Yala

reservation discovered 70 acres of their forest had been cut down by loggers. The Ngobe were under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. A report by the United Nations Development Fund found that over 45 percent of the population in the Ngobe Bugle reservation was illiterate. The Embera-Wounan struggled to protect their intellectual property in medicinal plants.

Social and employment discrimination against indigenous people was widespread. Employers frequently did not afford indigenous workers basic rights provided under labor laws, such as minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations continued to work under worse conditions than their nonindigenous counterparts. Indigenous migrant workers were unlikely to be provided with quality housing or food, and their children were much more likely to perform long hours of heavy farm labor than nonindigenous children (see section 6.d.).

*Other Societal Abuses and Discrimination.*—A 1920 law prohibiting homosexuality was not enforced. The law prohibits discrimination against persons with HIV/AIDS in employment and education, but discrimination continued to be common due to ignorance of the law and of HIV/AIDS. The government provided treatment for HIV/AIDS in at least 80 percent of cases through the Ministry of Health and Social Security, but the government had problems maintaining retroviral medication in stock. The New Men and Women of Panama, a gay rights group, however, averred that employers discriminated against openly gay people. There were no reported incidents of harassment or other abuse against the approximately 200 persons who participated in a gay pride march on June 24 in Panama City.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law recognizes the right of private sector workers to form and join unions of their choice, subject to the union's registration by the government. The law sets the minimum size of private sector unions at 40 workers and permits one union per establishment. Umbrella unions based on skill groups may also operate in the same establishment. The law provides that if the government does not respond to a registration application within 15 days, the union automatically gains recognition with all rights and privileges under the law. Union associations complained that such automatic registration did not function in practice. Employees of small companies may organize under a larger umbrella group of employees with similar skills and form a union as long as they number at least 40. The law also allows labor leaders to keep their union positions if fired from their jobs.

The International Labor Organization (ILO) Committee of Experts 2005 report requested that the government amend national legislation requiring a minimum of 50 public servants to establish a public servants union to reduce the number of public servants required to establish such organizations.

Approximately 13 percent of the total labor force was organized.

In October the government agreed to pay \$800 thousand (800 thousand balboas) to 270 public sector electricity and telecommunications workers whose dismissal the Inter-American Court of Human Rights had found improper in a 2001 ruling.

The government and political parties exercised political, ideological or financial influence over some unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides all private sector and most public sector workers with the right to organize and bargain collectively, and private worker unions exercised this right widely. The law establishes a conciliation section in the Ministry of Labor to resolve private labor complaints and provides a procedure for mediation.

Public workers had an association consisting of 19 public worker associations, but this association did not strike or negotiate collective bargaining agreements because only approximately 8 percent of government workers were protected from arbitrary dismissal as certified career employees. At year's end the ombudsman's office reported that it had received over 200 complaints of unjustified dismissal from public employees. The law grants some public employees a limited right to strike, except for those in areas vital to public welfare and security such as the police and health workers. At least 25 percent of the workforce must continue to work to provide minimum service in the case of administrative workers, and 50 percent must continue to provide service in the case of workers providing "essential public services," such as transportation, firefighting, telecommunications, and mail. In its 2005 report, the ILO Committee of Experts noted that inclusion of transport workers under the law regarding limitation on strikes in essential services sectors goes beyond essential services in the strict sense of the term.

The law prohibits federations and confederations from calling strikes. In its 2005 report, the ILO Committee of Experts requested that the government take measures to amend this legislation with a view to bringing it into line with the principle that federations and confederations should enjoy the right to strike.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its nine thousand employees, but does allow unions to organize and to bargain collectively on such issues as hours and safety and provides for arbitration to resolve disputes.

Employers in the retail industry commonly hired temporary workers to circumvent labor code requirements for permanent workers. In lower-skilled service jobs, employers often hired employees under 3-month contracts for several years, sometimes sending such employees home for a month and subsequently rehired them. Employers also circumvented the law requiring a 2-week notice for discharges by laying off some workers 1 week before a holiday. In addition, due to labor laws that made it difficult to fire employees who had worked 2 years or more, it was not uncommon to hire workers for one year and 11 months and subsequently lay them off.

Employers, following a 2000 supreme court ruling, increasingly negotiated directly with unorganized workers before unions formed or had a majority presence in the workplace. According to ministry of labor data, between 1990 and 2005, 593 of 916 collective agreements were negotiated directly between employers and workers.

Unions and collective bargaining are permitted in export processing zones (EPZs). In its 2005 report, the ILO Committee of Experts asked the government to confirm whether workers in export processing zones have the right to strike. A strike is considered legal only after 35 workdays of conciliation are exhausted; otherwise, striking workers can be fined or fired. The law regarding EPZs does not mention arbitration or specify procedures to resolve labor disputes in the courts.

The same labor laws governing EPZs applied to call centers. There were approximately 833 EPZ employees and several times more call center employees. Minimum wage provisions applied in the EPZs and call centers, and wages were generally higher in the call centers than in the economy as a whole. In the EPZs, workers could agree to take the law's compulsory Sunday rest period on another day and to overtime compensation based on a straight 25 percent differential, compared to a complex and costlier system under the Labor Code.

The law establishing the special economic area, created in 2004, in the former Howard Air Force Base Area contains provisions intended to facilitate greater labor flexibility along the lines of the minimum wage and required rest day provisions employed in the EPZs. Workers in this special economic area had the right to strike, organize and engage in collective bargaining.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by adults and children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law contains provisions to prevent exploitation of children in the workplace. The Ministry of Labor has responsibility for enforcement. Although the government allocated inadequate staffing and funding, the ministry was reasonably effective in enforcing the law regarding child labor in the formal sector. By August the ministry had performed 272 inspections of businesses to ensure compliance with child labor regulations. Child labor in agriculture and in the informal sector of the economy, however, remained a problem.

The law prohibits the employment of children under 14 years of age, with the exception that children age 12 and over are permitted to perform light farm work for up to 6 hours per day that does not interfere with their school hours. The law prohibits the employment of children under age 15 if the child has not completed primary school. However, child labor was a problem in some provinces and some economic sectors.

Children under age 18 legally cannot work more than 6 hours per day and cannot work at night. The law includes a prohibition on employment of minors under the age of 18 in hazardous labor. The Ministry of Labor enforced these provisions in response to complaints and could order the termination of unauthorized employment. The government acknowledged that it was unable to enforce some child labor provisions in rural areas, and it conducted only limited inspections due to insufficient staff (see section 6.e.).

Child labor violations occurred most frequently in rural areas, especially during the harvest of sugar cane, coffee, bananas, melons, and tomatoes. Farm owners often paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work.

The problem of child labor in agricultural areas fell most heavily on indigenous families, who often migrated out of their isolated reserves in search of paid work (see section 5). These frequent migrations interrupted schooling.

Child domestic labor was a problem. According to the 2000 census, more than 6 thousand children between the ages of 10 and 17 worked as domestic servants. Government enforcement of domestic labor violations was traditionally weak because the place of work is a private residence.

Many children continued to work in the informal sector of the economy as street vendors, shoe shiners, cleaning car windows, washing cars, bagging groceries in supermarkets, picking trash, or simply begging for money. A 2005 ILO survey estimated 52 thousand children between the ages of 5 and 17 worked in the informal sector. The government estimated there were 15 thousand children employed or working on their own informally in urban areas of the country. Approximately 45 percent of these children did not attend school. The government, the ILO, and the NGO *Casa Esperanza* funded a campaign of TV commercials and advertising to stop child labor.

*Casa Esperanza* operated 47 centers throughout the country to reduce child labor, and through its DESTINO project operated 7 schools for children who had left school to work.

*e. Acceptable Conditions of Work.*—The law establishes minimum wage rates for specific regions and for most categories of labor, excluding public sector workers. The minimum wage ranged from \$0.82 (0.82 balboas) to \$1.56 (1.56 balboas) per hour, depending on the region and sector. This wage did not provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earned the minimum wage or more. Approximately 40 percent of the population, however, worked in the large informal sector and earned far below the minimum wage. This was particularly the case in most rural areas, where unskilled laborers earned from \$3.00 to \$6.00 (3 to 6 balboas) per day without benefits. The government did not enforce labor laws in most rural areas.

The law establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly, limits the number of hours worked per week, provides for premium pay for overtime, and prohibits excessive or compulsory overtime. The Ministry of Labor generally enforced these standards in the formal sector.

The Ministry of Labor is responsible for setting and enforcing health and safety standards and generally did so. The Ministry of Labor conducted 2,223 workplace inspections to verify compliance with labor laws.

Although inspectors from the Ministry of Labor and the occupational health section of the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints, the government failed to enforce adequately health and safety standards. Construction workers and their employers were notoriously lax about conforming to basic safety measures. Workers have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally were not allowed to do so if the threat was not immediate, but could request a health and safety inspection to determine the extent and nature of the hazard.

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## PARAGUAY

Paraguay is a constitutional republic with a population of approximately 6.3 million. The president is the head of government and head of state. In 2003 voters elected Nicanor Duarte Frutos of the Colorado Party as president in generally free and fair elections. The congress consists of a 45-member Senate and an 80-member Chamber of Deputies. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were serious problems in some areas. The following human rights problems were reported:

- killings by the police and military, which the government investigated
- abuse of convicted prisoners, other detainees, and conscripts
- overcrowding and violence in prisons
- arbitrary arrests and detention, lengthy pretrial detention, corruption and inefficiency in the judiciary, and infringements on citizens' privacy rights
- excessive police force against illegal but peaceful demonstrations

- violence and discrimination against women, trafficking in persons, discrimination against persons with disabilities and indigenous persons, inadequate protections of worker rights, child labor, and child abuse
- illegal military conscription of minors, although at reduced levels

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, security forces were responsible for killings involving the use of unwarranted or excessive force. There were reports of police officers killing persons while acting outside the scope of their duties and of deaths in custody.

On July 10, police sub-commissioner Francisco Ramon Rojas Aveiro was detained on charges of ordering the killing of three persons in San Pedro in January. An investigation continued at year's end.

On August 21, authorities arrested a police officer, a cadet in the Military Academy, and two others for killing Lucio Luis Vera on August 11. Reports indicated that Vera was returning home from work when the suspects shot him in the course of an attempted robbery. The case remained pending at year's end.

On several occasions, police used force to disperse illegal protesters, particularly in connection with land invasions and labor protests; these actions resulted in deaths and injuries on both sides (see section 2.b.).

On June 24, the forcible eviction by police of families from property claimed by a Brazilian settler in Tekojoja, Caaguazu Department, resulted in the deaths of Angel Cristaldo and Leopoldo Torres, who were members of the Agrarian and Popular Organization, and injuries to five others. Authorities arrested the settler Ademar Aloisio Opperman and several of his employees for their role in the killings. There were 25 suspects in the case, 3 of whom were in prison, and the case remained pending at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Political figures Juan Arrom and Anuncio Marti, members of the Patria Libre Party (PPL), accused of kidnapping Maria Edith Bordon de Debernardi in 2001, remained in Brazil, where authorities granted them political asylum in 2003. In June the lead prosecutor in this case stated that the same gang involved in the Debernardi kidnapping was also responsible for the February killing of Cecilia Cubas, daughter of former President Raul Cubas, who had been kidnapped in September 2004. On October 13, after the attorney general filed formal charges, a judge indicted 15 suspects in the case. Several of the defendants had ties to a militant faction of the PPL.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there were reports that some government officials continued to employ them. The Paraguay Human Rights Coordinating Board (CODEHUPY)—a group of 32 nongovernmental organizations (NGOs), civic organizations, and trade unions—reported several cases of police torture and other abusive treatment of persons, including women and children, designed to extract confessions, punish escape attempts, or intimidate detainees.

Marcial Martinez Amarilla, a member of the Popular Rural *Campesino* Organization, stated that, on March 31, police in Valle Pe, Guaira Department, entered his home, forcibly apprehended him without a warrant for his arrest, and tortured him for three hours on suspicion of cattle theft. The case remained under investigation at year's end.

On December 29, police detained Juan Carlos Silvero Medina in San Juan Nepomuceno, Caazapa Department, where he was held for more than 10 hours for allegedly disturbing the peace and severely beaten.

There were no developments in the case of Ramon Benitez Irala, who claimed in July 2004 that he was shot when policemen raided his home and was refused treatment for eight days.

There were several reports of members of the military harassing, beating, and killing civilians, particularly while responding to land invasions (see section 2.b.).

The law allows the human rights ombudsman to investigate and seek monetary compensation in cases of human rights abuses stemming from the 1954–89 Stroessner regime. Since his appointment in 2001, the ombudsman has ruled that 805 of 1,728 victims who filed petitions were entitled to compensation and awards ranging from \$583 to \$17,500 (3.5 to 105 million guaranies). More than 400 victims (and/or family members) either already received payments or were due to receive payments, according to the ombudsman. Since 1993, 3,583 human rights cases have

been filed, predominantly stemming from the Stroessner era. Although the Truth and Justice Commission continued to investigate and document human rights abuses between 1954 and October 2004, a tight budget constrained its progress.

On June 15, government officials, NGOs, and the UN Children's Fund (UNICEF) released a report documenting accusations of torture and ill-treatment of conscripts in the cities of Altos, Cordillera Department; Ciudad del Este, Alto Parana Department; and Mariscal Estigarribia, Boqueron Department. On August 25, armed forces commander, General Jose Kanazawa, apologized for past mistreatment committed by military personnel under his command.

*Prison and Detention Center Conditions.*—Prison facilities were deficient, and prison conditions were extremely poor. Overcrowding, unsanitary living conditions, and mistreatment were the most serious problems affecting all prisoners. According to the Paraguay Human Rights Coordinating Board (CODEHUPY), Tacumbu prison, the largest in Asuncion, was built to hold approximately 800 inmates but held nearly 3 thousand for most of the year. A majority of those held were awaiting trial. Regional prisons generally held approximately three times more inmates than their original capacity. Additional prison facilities were under construction, for example, in Caaguazu.

A makeshift maximum security facility not designed as a prison or officially designated as a prison, held dangerous offenders or those considered high escape risks in solitary confinement.

Security was a problem throughout the prison system. For example, there were approximately 130 guards for nearly 3 thousand prisoners at Tacumbu prison. Inmates frequently had weapons, particularly at the Emboscada prison in Minas. Escapes and escape attempts were frequent, while corruption among prison guards and judicial officials remained a problem.

On April 10, the director of the Tacumbu prison Artemio Vera announced that some of his guards were accomplices, along with the prisoners, in criminal activities inside the prison. He called for changes in the prison system. On July 11, the prison's new director, Arnildo Caballero, announced the hiring of a private security firm to support the guards in such efforts as reducing the influx of weapons; there were no subsequent reports of guards associated with criminal activity.

Men and women prisoners generally were held separately. While some smaller institutions held prisoners of both sexes, it was government policy to hold them in separate wings, but this was not always done in practice. A Senate Human Rights Committee investigation of abuse and conditions at the prisons found that prisons generally were in "deplorable" conditions. Many prisons were overcrowded, lacked sufficient infrastructure to accommodate the inmates, needed additional security guards, required maintenance, and raised serious health concerns.

Although juvenile prisoners generally were held separately from adults, adults and juvenile prisoners continued to be held together in smaller prisons outside the capital.

The government permitted independent monitoring of prison conditions by human rights organizations. Amnesty International and diplomatic representatives were granted access to prisons for announced and unannounced visits.

*d. Arbitrary Arrest or Detention.*—The law prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement; however, arbitrary arrest and detention were problems. The police may arrest without a warrant persons apprehended in the act of committing a crime, but they must notify a prosecutor. In practice the authorities did not always comply with these provisions.

*Role of the Police and Security Apparatus.*—The National Police, under the authority of the minister of interior, have responsibility for law enforcement and internal security. The police were inadequately funded, poorly trained, and generally corrupt. The government took steps to control and punish human rights violations committed by police officers; however, the police enjoyed impunity for many of their actions. There were reports that police were involved in narcotics trafficking and provided support to the more notorious kidnapping rings. On September 2, the national police commander opened an investigation against one of his deputies for forging identification documents for a known leader of a kidnapping ring. In October the Senate rejected the promotion of corrupt police official Aristides Cabral who was connected to narcotraffickers. Nonetheless, in November Cabral was appointed chief of police for the department of President Hayes, which serves as a corridor for illegal flights moving drugs and contraband across the country.

The overall crime rate continued to fall; police made arrests in a number of high-profile cases, such as kidnappings; and the 911 system for reporting emergencies to police continued to generate positive results. Additionally, the National



Antinarcotics Secretariat's hot line led to arrests of several of their most wanted persons.

*Arrest and Detention.*—The law provides that, after making an arrest, police have up to 6 hours to notify the prosecutor's office, at which point the prosecutor's office has up to 24 hours to notify a judge whether it would prosecute the case.

The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, and authorities appeared to respect this right and to inform detainees promptly of the charges against them. The average time from arrest to trial was approximately 240 days. The law permits detention without trial until the accused completes the minimum sentence for the alleged crime, which often occurred in practice. The law allows judges to utilize "substitute measures," such as house arrest, in place of bail for most crimes; however, judges frequently set relatively high bail, and many accused persons were unable to post bond.

The law grants accused criminals the right to counsel, but the government lacked resources to provide counsel to poor defendants, and many went to trial without representation. The government permitted defendants to hire attorneys at their own expense. Inmates were allowed regular visits from family members, including conjugal visits.

There were no reports of political detainees.

Pretrial detainees constituted approximately 75 percent of the prison population. Supreme court justices and staff and many criminal court judges made periodic visits to the prisons to identify and release improperly detained individuals.

*e. Denial of Fair Public Trial.*—While the law provides for an independent judiciary, courts remained inefficient and subject to corruption and political influence. Politicians and other interested parties blocked or delayed investigations and often pressured judges, although the judiciary was not allied with any political group.

The nine-member Supreme Court appoints lower court judges and magistrates, based upon recommendations by the magistrate's council. There are five types of appellate tribunals: civil and commercial, criminal, labor, administrative, and juvenile. Minor courts and justices of the peace come within four functional areas: civil and commercial, criminal, labor, and juvenile. The military has its own judicial system, which is subordinate to the civilian justice system.

*Trial Procedures.*—All trials are open to the public. The law stipulates that all defendants have the right to an attorney, at public expense if necessary; however, this right often was not respected in practice. Many destitute suspects received little legal assistance, and few had access to an attorney sufficiently in advance of the trial to prepare a defense. The 148 public defenders in the country, including 44 in Asuncion, lacked the resources to perform their jobs adequately.

The law requires prosecutors to bring charges against accused persons within 180 days. Defendants enjoy a presumption of innocence, and defendants and the prosecutor may present the written testimony of witnesses as well as other evidence. The judge alone determines guilt or innocence and decides punishment. A convicted defendant may appeal the sentence to an appeals court, and the Supreme Court has jurisdiction over constitutional questions.

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

*Property Restitution.*—In August the government expropriated 130 thousand acres of land in Puerto Casado owned by Reverend Sun Myung Moon's Unification Church for distribution to local farmers. The government held that the land was not being productively used. The law requires compensation to the owners, but funding had not been identified by year's end.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits police entry into private homes except to prevent a crime in progress or when the police possess a judicial warrant. While the government and its security forces generally did not interfere in the private lives of citizens, human rights activists credibly claimed that local officials and police officers abused their authority by entering homes or businesses without warrants and harassing private citizens. There were credible allegations that some government offices occasionally spied on individuals and monitored communications for partisan or personal reasons.

Marcial Martinez Amarilla, a member of the Popular Rural *Campesino* Organization, stated that, on March 31, police in Valle Pe, Guaira Department, entered his home and forcibly apprehended him without a warrant for his arrest (see section 1.c.).

## Section 2. Respect for Civil Liberties, Including:

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The print and electronic media were independently owned; some media outlets were tied closely to political parties or business entities. Many media outlets clearly reflected personal business or political interests, and ethical and professional standards were low. The media commonly criticized the government and freely discussed opposition viewpoints.

On August 26, police acting on an order of the National Commission for Telecommunications raided and closed Radio Nemity FM, a community-based radio station in Capiibary, on the grounds that the station had no license. Police also confiscated the station's equipment. The station, which was awaiting an answer to its request for registration, had been closed before due to on-air comments made about local politicians. Many other stations in the country operated without a license.

Application of libel law was irregular. Judges were biased toward plaintiffs and frequently ruled in their favor regardless of the merits of a case. Other political figures used police or private security officers to threaten or intimidate journalists. On December 28, the Supreme Court affirmed a lower court finding that *ABC Color*, a leading publication, had defamed Senator Juan Carlos Galaverna of the ruling Colorado Party; the charges stemmed from articles *ABC Color* published in 1997 and 1998.

On November 30, Ciudad del Este prosecutor Delio Gonzalez Sanchez denied four reporters access to the scene while he raided the Time Import Company to investigate the alleged circulation of counterfeit dollars. Authorities detained the reporters in a stairway behind a locked gate for more than an hour.

On several occasions, politicians and prosecutors publicly threatened journalists who revealed embarrassing information about them, typically related to corruption. In May agriculture minister Antonio Ibanez threatened journalist Erwing Rommel Gomez after he wrote several stories about Ibanez's alleged corrupt practices. Shortly thereafter, Ibanez resigned his position.

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

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly, and the government generally respected this right in practice. In some cases, police violently dispersed illegal but nonviolent assemblies.

The law restricts demonstrations in Asuncion to certain times and places and specifically prohibits meetings or demonstrations in front of the presidential palace and outside military or police barracks. The law also requires that organizers notify the Asuncion police 24 hours before any rally downtown. In addition, the law prohibits public gatherings in the congressional plaza in Asuncion, the traditional focal point for many demonstrations, during daylight hours on workdays. The police may ban a demonstration but must provide written notification of the ban within 12 hours of receipt of the organizers' request. The law permits a police ban only if another party already has given notice of plans for a similar rally at the same place and time. This law does not apply to religious processions. The law prohibits closing roads as a form of protest, but demonstrators did so on many occasions during the year.

Although the president in November invoked the government's right to "act to preserve public order" in connection with a month-long demonstration in front of the Palace of Justice, by year's end, the government had not acted to disperse hundreds of the demonstrators.

Several *campesino* organizations held demonstrations during the year. Although members blocked several national highways, and *campesinos* invaded and occupied numerous rural properties, calling on the government to expropriate farmland for redistribution, rural unrest was significantly less than in 2004.

*Freedom of Association.*—The constitution provides for the right of citizens to free association, and the government generally respected this right in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. The government required all religious groups to register with the Ministry of Education and Culture but imposed no controls on these groups, and many unregistered churches existed.

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts. There were approximately 350 Jewish families in the country.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice. Authorities frequently prohibited those accused of crimes from leaving the country and, on occasion, barred those convicted of crimes from

traveling abroad after completing their sentences. The law expressly prohibits exile, and the government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The law mandates general elections every five years with voting by secret ballot.

*Elections and Political Participation.*—In the April 2003 multiparty general elections, Nicanor Duarte Frutos of the Colorado Party won the presidency. Observers from the Organization of American States characterized the elections as generally free and fair. There were no reports of systematic nationwide irregularities, although the NGO Transparency Paraguay cited irregularities at several polling stations.

There are no legal impediments to women's participation in government and politics. There were 14 women in congress (6 of 45 senators and 8 of 80 national deputies), 1 woman on the Supreme Court, 1 woman elected as a departmental governor, 3 women heading cabinet ministries, and 6 additional women holding ministerial rank and heading secretariats. The Electoral Code requires that 20 percent of each party's candidates in their internal primaries for elective office be women.

Although there were no legal impediments to minority groups' participation in government and politics, there were no indigenous members of the legislature. An estimated 50 percent of the approximately 40 thousand indigenous persons eligible to vote did so in the 2003 general elections, but members of some indigenous communities reported that they were threatened and prohibited from fully exercising their political rights, and indigenous people continued to hold rallies protesting limits on their political and human rights.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption in government. The NGO Transparency International reported that corruption remained a "severe" problem in the country, although the perception index improved slightly from the preceding year. The government maintained working relationships with civil society organizations to promote transparency in the public sector.

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

Domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative; however, their response to the views and recommendations of the human rights groups was mixed.

Local NGO human rights groups included the Committee of Churches (an interdenominational group that monitored human rights, investigated refugee claims, and provided legal assistance), Grupo Luna Nueva (a group dedicated to the protection of children's rights), and Peace and Justice Service or SERPAJ (a group that defended conscientious objectors and provided legal assistance to those with grievances arising from military service). CODEHUPY's annual report highlighted abuses of police authority and mistreatment of military recruits.

In October Ombudsman Paez Monges was re-appointed for a third 2-year term as the country's human rights advocate.

The director general of human rights, located in the Ministry of Justice and Labor, chaired the National Commission on Human Rights. The commission sponsored seminars to promote human rights awareness. The director general's office has access to the congressional, executive, and judicial authorities. It does not have subpoena or prosecutorial power, but the commission may forward information concerning human rights abuses to the attorney general for action. It served as a clearing house for information on human rights and trained thousands of educators in human rights law.

The Foreign Ministry's Human Rights Office organized an inter-ministerial roundtable on human rights that met periodically throughout the year. It served as a

forum for human rights officials from various ministries to coordinate their efforts and focused principally on combating trafficking in persons.

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

While the law prohibits discrimination based on race, gender, disability, language, or social status, certain groups, such as indigenous persons, faced significant discrimination in practice.

*Women.*—The most pervasive violations of women's rights involved sexual and domestic abuse. Spousal abuse was common. Although the law criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal and then is punishable by a fine. Thousands of women were treated for injuries sustained in violent domestic altercations. Despite an apparent trend toward increased reporting of complaints, such complaints were often withdrawn soon after filing due to spousal reconciliation or family pressure, including from the attacker who is often the spouse. In addition, the courts allow mediation of some family violence cases, although not provided for in the law. The Secretariat of Women's Affairs' Office of Care and Orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the attorney general's office, and NGOs. In practice these services were available only in Asuncion. The secretariat also conducted training courses for the police, health care workers, prosecutors, and others.

The NGO Women's November 25th Collective operated a reception center where female victims of violence received legal, psychological, and educational assistance. The NGO Kuna Aty also offered services to abused women. There were no shelters for battered and abused women outside of Asuncion.

The law criminalizes rape, including spousal rape, and provides penalties of up to six years in prison. According to the Office of the Attorney General, rape was a significant problem. During the year, there were more than 300 cases of rape in Asuncion and many more in the other departments. The government generally prosecuted rape allegations and often obtained convictions; however, many rapes went unreported because victims feared their attackers or were concerned that the law did not adequately respect their privacy.

The law prohibits the sexual exploitation of women, but the authorities did not enforce the prohibition effectively. Prostitution is legal for persons over the age of 18, and exploitation of women, particularly underage prostitutes, remained a serious problem.

The law prohibits but does not criminalize sexual harassment, and it remained a problem for many women in the workplace. While there are no penalties specifically for harassment, related violations of the law are punishable by fines and up to three months' imprisonment. Claims of abuse may be filed with the courts and the Ministry of Justice and Labor, but harassment was difficult to prove, and most complaints were settled privately.

Although women generally enjoyed the same legal status and rights as men, gender-related job discrimination was widespread and widely tolerated. Women often were paid significantly less than men for the same work. The Secretariat of Women's Affairs occasionally sponsored programs intended to give women equal access to employment, social security, housing, ownership of land, and business opportunities.

*Children.*—The law protects certain children's rights and stipulates that parents and the state should care for, feed, educate, and support children.

Public schooling was provided through the age of 17, and education was compulsory until the age of 14. According to UNICEF, in 2004 the enrollment rate for children between the ages of 6 and 14 was 89 percent and 50 percent for those between the ages of 15 and 17. The law entitles boys and girls to equal educational access; at all ages, enrollment among girls was slightly greater than enrollment among boys. Rates of enrollment in urban areas were slightly higher than rates of enrollment in rural areas. Approximately 59 percent of indigenous children between the ages of 6 and 14 were enrolled in school. The national literacy rate was 92 percent.

According to UNICEF, 48 percent of children age 14 or younger lived in poverty (20 percent in extreme poverty), and 11 percent of those suffered from chronic malnutrition, with both figures trending upward. Boys and girls generally had equal access to medical care.

Abuse and neglect of children was a serious problem. A local NGO attributed a rise in the number of complaints of mistreatment of children to the increased awareness of child abuse and neglect. The government has a National Plan to Prevent and Eradicate the Exploitation of Children. The Secretariat of Children and Adolescents is responsible for this 5-year program, for identifying and providing assistance to abused and neglected children, and for educating the public to prevent abuse.

Sexual exploitation of children also was a problem. UNICEF reported that two-thirds of sex industry workers were minors, the majority of whom began working between the ages of 12 and 13. In addition, UNICEF reported there were more than 40 thousand *criadas* (domestic servants) between the ages of 6 and 12, who were often sexually exploited as well. In November the government's Municipal Advisory Council on the Rights of Children and Adolescents reported that 35 percent of street children in Ciudad del Este had been victims of sexual exploitation, in many cases with the full knowledge of their parents.

During the year the government's Child and Adolescent Secretariat registered more than 28 thousand children, not previously included in the Civil Registry; the secretariat estimated that more than 600 thousand children remained to be unregistered. The Secretariat also participated in or organized programs related to combating trafficking in persons, abuse of children, and child labor issues, such as children who are domestic servants.

There were reports of trafficking in girls for the purpose of sexual exploitation (see section 5, Trafficking).

On June 15, government officials, NGOs, and UNICEF released a report regarding the conscription of minors. The report found isolated incidents of continued forced or deceitful recruitment in the city of Salto del Guaira, Canindeyu Department, and documented accusations of torture and ill-treatment of conscripts in the cities of Altos, Cordillera Department; Ciudad del Este, Alto Parana Department; and Mariscal Estigarribia, Boqueron Department (see section 1.c.). The report also noted the recruitment of indigenous youths who were exempt from obligatory military service.

The government established review procedures for military conscripts to prevent enlistment of minors and to investigate and report on abuses and conditions. The government requires that all military officers responsible for recruiting ensure that all conscripts meet the legal minimum age of 18. The armed forces has a human rights office responsible for helping NGOs investigate the alleged use of forged documents and illegal recruiting practices.

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

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked from and within the country for sexual purposes.

The law punishes trafficking in persons with up to 10 years in prison; the law also forbids compelling anyone to travel outside the country or to enter the country for the purpose of prostitution or compelling a minor under 18 to work as a prostitute. At year's end, there were more than 20 transnational cases under investigation, 4 of which had been transferred to judicial proceedings. Ten persons were in prison, four convicted of trafficking and associated crimes and six charged with these crimes.

The secretariats of women's affairs and of children and adolescents were responsible for combating trafficking, and the Secretariat for Repatriations had a mandate to assist women who were trafficked abroad; however, the secretariats' small budgets limited their effectiveness.

On July 1, authorities extradited Paraguayan national Carolina Maidana Duarte from Spain for her involvement in the trafficking of Lurde Resquin to Spain. In December 2004, Maidana's brother Raul Antonio Maidana Duarte and Mario Ramon Gonzalez Caceres were convicted for their involvement in the trafficking of the same woman. In April the convictions were overturned on the grounds that the defendants should be tried in Spain where the trafficked woman suffered the ultimate effects of the crime. On November 21, the Supreme Court's Penal Court reversed the lower court decision and reinstated the original convictions, stating that the crime started in the country at the moment of deception by the defendants.

The country was a source for trafficked persons, and trafficking also took place within the country. Anecdotal evidence suggested that several hundred women and children were trafficked abroad annually. There were no estimates available on the extent of trafficking within the country. Most victims came from the rural interior of the country, particularly the departments of Alto Parana, Canindeyu, Caaguazu, and Itapua, which border Argentina and Brazil and where international organized crime groups have a heavy presence. The borders are very porous and there were few border officials. Within the country, victims were trafficked primarily to the two largest cities, Asuncion and Ciudad del Este; the most significant foreign destinations were Argentina and Spain; smaller numbers of victims went to Brazil. Trafficking victims within the country worked in the sex industry. Underage girls reportedly also were forced to work as *criadas*, both domestically and in neighboring countries. According to the Secretariat for Children and Adolescents, many of these children were sexually abused. Government and NGO studies showed that most of

the girls trafficked were working as street vendors when traffickers targeted them and that 70 percent of victims had drug addictions. The local NGO Grupo Luna Nueva and the International Organization for Migration reported that trafficking of women and children increased by 27 percent in the past 5 years.

The trafficking of women and children for sexual exploitation was a high-profit, low-risk activity for traffickers who moved easily across the borders with Argentina and Brazil. The traffickers took advantage of the poor who lived in the border departments, promising women, and in many cases young girls, jobs in the retail industry. In some cases, the parents were fully aware that their daughters planned to work in other cities or countries but were unaware of the conditions and actual job.

On several occasions, Argentine police rescued Paraguayan women from Buenos Aires brothels, where they had been forced to work as prostitutes. On June 27, Argentine authorities detained two men in Buenos Aires for their involvement in holding 27 women and 5 young girls (one of whom was pregnant) in various locations for prostitution. On July 11, the country's ambassador to Argentina stated that 33 women and 10 girls had been rescued from brothels in Argentina. In both instances, the victims later were repatriated.

The government's primary focus in protecting victims was the repatriation of its own citizens. Provision for the physical and mental health of those repatriated, as well as for their transportation home, was limited. The lack of resources also prevented periodic follow-up after repatriation.

Efforts to prevent trafficking included interministerial roundtables organized by the Ministry of Foreign Affairs to discuss trafficking in persons. In July and August, the government, with foreign government support, organized and conducted a study to assess conditions and make recommendations for immigration and border controls that would assist in combating the problem of trafficking in persons. A national communications campaign, organized by the Secretariat of Women's Affairs with foreign government support, seeks to prevent women and girls from becoming victims of trafficking.

The Itaipu Binational Authority, a public utility company jointly owned by the country and Argentina, supported the NGO Children's and Adolescents' Care and Assistance Center, which operated a hot line and shelter for trafficking victims in Ciudad del Este.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. Nonetheless, many persons with disabilities faced significant discrimination in employment; others were unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for persons with disabilities, and most of the country's buildings, public and private, were inaccessible.

The Ministry of Health noted that half of all children with disabilities did not attend school because public buses could not accommodate them. Many bus drivers reportedly refused boarding to persons with disabilities or required them to be accompanied.

Conditions for the 460 residents at the Neuropsychiatric Hospital in Asuncion were substandard, and some patients reportedly were kept unclothed in cells and not treated for their mental illnesses. The hospital lacked running water, electricity, or even roofs, and the hospital was severely understaffed. The patients were not fed adequately; parasitic and skin infections were widespread and rarely treated. Children were housed with adults and were subjected to sexual assaults. There was no information available on a response by the Inter-American Commission on Human Rights to a 2002 petition that it intervene to protect the 460 residents of the facility from sexual abuse and to end their long-term isolation. On March 8, the NGOs Mental Disability Rights International and Center for Justice in International Law signed an agreement with the government to support reforms at that institution, but there were no reports of steps taken to implement the agreement by year's end.

*Indigenous People.*—The law provides indigenous people with the right to participate in the economic, social, political, and cultural life of the country; however, the indigenous population (officially estimated at more than 90 thousand) was unassimilated and neglected. Low wages, long work hours, infrequent payment (or nonpayment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination were common. Weak organization and lack of financial resources limited access by indigenous persons to the political and economic system. The law also protects the property interests of indigenous people, but these rights were not fully codified. The law allows public ministry officials to represent indigenous people in matters involving the protection of life and property.

Lack of access to sufficient land hindered the ability of indigenous groups to progress economically and maintain their cultural identity. In addition, there was insufficient police and judicial protection from persons encroaching on indigenous lands. Many indigenous people found it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership.

Other significant problems facing the indigenous population included lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention slowed progress in dealing with these problems.

In February the Inter-American Commission of Human Rights stated that the government had violated six articles of the American Convention on Human Rights by displacing indigenous populations from their ancestral lands and denying them the right to land, education, health, and judicial protection.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference and workers exercised this right in practice. The law contains provisions that protect fundamental worker rights, including an anti-discrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121 thousand (15 percent) of workers were organized in approximately 1,600 unions.

All unions must be registered with the Ministry of Justice and Labor. Although the official registration process was cumbersome and could take more than a year, the Ministry of Justice and Labor issued provisional registrations within weeks of application. Employers who opposed the formation of a union can delay union recognition by filing a writ, but almost all unions requesting recognition eventually received it.

The law prohibits antiunion discrimination, but it was not always enforced. Harassment of some union organizers and leaders in the private sector continued. Fired union leaders may seek redress in the courts, but the labor tribunals were slow to respond to complaints. A number of cases involving union leaders fired as many as nine years ago remained pending in the courts. Although the courts typically favored employees in disputes, backlogs in the judicial system delayed cases for several years. As a result, most employees could not afford the time and expense of seeking judicial redress. The courts were not required to order the reinstatement of workers fired for union activities. In some cases, when judges ordered the reinstatement of discharged workers, employers continued to disregard the court order with impunity. The failure of employers to meet salary payments also frequently precipitated labor disputes.

There were also complaints that management created parallel or "factory" unions to compete with independently formed unions. In several cases workers allegedly chose not to protest due to fear of reprisal or anticipation of government inaction.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and this provision generally was respected in practice. According to the Ministry of Justice and Labor, there were approximately 30 collective bargaining agreements in place, covering approximately 10 percent of private sector employees and 60 percent of public sector employees; however, the agreements typically did little more than reaffirm minimum standards established by law. When wages were not set in free negotiations between unions and employers, they were made a condition of individual offers of employment.

Although the law provides for the right to strike, bans binding arbitration, and prohibits retribution against strikers and leaders carrying out routine union business, employers often took action against strikers and union leaders. Voluntary arbitration decisions are enforceable by the courts, but this mechanism rarely was employed. Senior Ministry of Justice and Labor officials were available to mediate disputes.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of the strikes were related to the firing of union officials, management violations of a collective contract, management efforts to prevent the free association of workers, or demands for benefits such as payment of the minimum wage or contribution to the social security system. Others were directed at broader economic issues.

There are no export processing zones. Factories that assemble imported parts for re-export (*maquiladoras*), operated in the eastern part of the country. The Mercosur trade association accepted the country's *maquiladoras* into its automotive regime. The country's labor laws apply to *maquila* operators.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. Authorities enforced compulsory military service for all males, unless exempted as conscientious objectors) occurred, as there were reports of conscripts forced to work as construction workers for military officers in their privately owned businesses.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The director general for the protection of minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws. In practice the government did not enforce minimum working age regulations, and child labor was a problem that contributed to the legal and illegal economy of the country.

Minors between 15 and 18 years of age may work only with parental authorization and may not be employed in dangerous or unhealthy conditions. Children between 14 and 15 years of age may work only in family enterprises, agriculture, or apprenticeships. Although the labor code prohibits work by children under age 14, in August the press reported government research documenting that approximately 40 percent of the children in primary grades worked in street vending jobs during school hours in Ciudad del Este.

The 2001 census reported that 5 percent of the workforce was under the age of 14. According to the NGO Organization for the Eradication of Child Labor (COETI), 265 thousand children, or 13.6 percent of those between the ages of 5 and 17, worked outside their homes, many in unsafe conditions. In supermarkets, boys as young as age 7 bagged and carried groceries to customers' cars for tips. Thousands of children in urban areas, many of them younger than 12 years of age, were engaged in informal employment, such as selling newspapers and sundries and cleaning car windows. Many of the children who worked on the streets suffered from malnutrition and disease and lacked access to education. Some employers of the estimated 11,500 young girls working as *criadas* denied them access to education and mistreated them. According to the Secretariat for Children and Adolescents, many of these children were also sexually abused. An official in the Center for Adoptions was arrested for employing a 9-year-old *criada*, who was living in deplorable conditions and not permitted to attend school. The official was detained, and the case remained pending at year's end. In rural areas, children as young as 10 years of age often worked beside their parents in the fields; according to COETI, 88 percent of rural children in the labor force worked at home or with family members. Local human rights groups did not regard families harvesting crops together as an abuse of child labor. UNICEF reported that 25 percent of children between the ages of 10 and 17 worked, of whom 47 percent worked on family farms, 22 percent in construction, 13 percent work in the street, and 11 percent operated machinery or were artisans. The children worked approximately five hours per day.

While the government took some steps in implementing its 2003 plan to eliminate child labor, including the worst forms of child labor, resource constraints limited progress.

*e. Acceptable Conditions of Work.*—The Ministry of Justice and Labor established a national private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. There was no public sector minimum wage. In practice most (but not all) government agencies adjusted the hours of work for government workers to be paid at a rate comparable to the private sector minimum wage. The minimum salary is adjusted whenever annual inflation exceeds 10 percent, and was approximately \$180 (1.08 million guaranías) per month. However, the Ministry of Justice and Labor did not enforce the minimum wage and estimated that 50 percent of government workers earned less than the minimum wage, while 48 percent of private sector workers earned less. The law requires that domestic workers be paid at least 40 percent of the minimum wage and allows them to work up to a 12-hour day.

The law allows for a standard legal workweek of 48 hours (42 hours for night work), with one day of rest. The law also provides for an annual bonus of one month's salary and a minimum of six vacation days a year. The law requires overtime payment for hours in excess of the standard. However, many employers violated these provisions. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely staged strikes to demand that their employers comply with the law's provisions on working hours, overtime, and minimum wage payments.

The law also stipulates conditions of safety, hygiene, and comfort. The government did not allocate sufficient resources to enable the Ministry of Justice and Labor and the Ministry of Health to enforce these provisions effectively.

Workers have the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, but they may not



do so until the Ministries of Justice and Labor and Health recognized such conditions formally. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

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## PERU

Peru is a multiparty republic with a population of approximately 28 million. In 2001 Alejandro Toledo of the Peru Posible party won the presidency in elections that generally were free and fair. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were serious problems in a number of areas. The following human rights problems were reported:

- beatings, abuse, and torture of detainees and inmates by police and prison security forces
- harassment of witnesses by security forces
- impunity of military and security forces
- poor prison conditions
- prolonged pretrial detention and inordinate delays of trials
- pressure on the media by local authorities and other groups, including coca growers and a notorious narcotrafficker
- violence and discrimination against women
- violence against children, including sexual abuse
- trafficking in persons
- discrimination against indigenous people and minorities
- significant obstacles to persons with disabilities
- restrictions on collective bargaining rights
- child labor in the informal sector

The terrorist organization Shining Path (*Sendero Luminoso*) was responsible for killings and other abuses.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings, although there was one report of an unlawful killing by police from 2004, which came to public attention during the year. Unlike in previous years, no military recruits died under suspicious circumstances during the year, compared with two such cases in 2004.

In January the Human Rights Commission (COMISEDH) accepted the case of three police officers who allegedly beat Ricardo Huaranga Felix to death when they arrested him in November 2004. Family members of the deceased stated they had received threats from unknown persons urging them to drop the case against the police. On November 22, unknown persons abducted and beat a key witness in the case and left him in a remote area of Lima. COMISEDH filed a complaint with the prosecutor of Lima's Northern Cone. At year's end the case continued in the National Criminal Court, and two of the three accused officers remained in prison.

In August a court found three members of the security forces guilty of the 2002 murder of Jose Reina Rincon and sentenced each of them to 25 years' imprisonment.

There were no new developments in the criminal case against four police officers accused of the 2003 torture and killing, while in custody, of Edgar Lopez Sancarranco.

In May the Cuzco prosecutor brought charges of 16 years' imprisonment and a fine of \$15 thousand (51,600 soles) against 7 police officers involved in the 2003 death in custody of Julio Alcazar Dolmos.

In April the fourth supraprovincial prosecutor of Lima dropped, for lack of evidence, charges against police officers involved in the 2002 death in custody of Gerardo Adrianzen Otarola.

In April the Supreme Court of Justice upheld the ruling of a lower court in Chincha that had sentenced four agents of the National Penitentiary System to five years in prison for the 2001 killing of inmate Esteban Minan Castro.

At year's end there were no new developments and none were expected in the 2003 case of the killing of Edy Quilca Cruz and the injury of 30 other persons fired upon by soldiers during a protest in Puno.

In February authorities filed homicide charges in the criminal court in Huanta against two military officers in the June 2004 case of Peter Vasquez Chavez, a 23-year-old military recruit who had been found dead at the Cangari-Huanta Military Base in Ayacucho. Although the military stated that Vasquez Chavez died as a result of an attack by the Shining Path, local residents stated that no such attack took place. The case continued at year's end.

In December 2004 the court of Puquio in Ayacucho ordered investigations into the October 2004 case of Army Corporal Edgar Ledesma Lopez, who was found dead in his military barracks. Four military officers remained under investigation at year's end.

There were no further developments and none were expected in the 2003 deaths of recruits Leonel Sanchez Rivero and Freddy Campos Avendano.

Investigations continued in the 2003 deaths of Army recruit Corporal Magno Ariza Paitan and Corporal John Lenon Olortegui.

Following an August retrial, prosecutors elected not to file charges in the 2000 killing of Air Force recruit Jose Luis Poma Payano.

The government continued to arrest members of the *Grupo Colina* death squad. Since 2001 authorities have arrested 13 members of the group. At year's end the trials, which included the cases of Barrios Altos and La Cantuta, were all in the oral proceedings phase.

The case involving charges of extrajudicial killing in the 1997 rescue of 74 hostages at the Japanese ambassador's residence continued to progress through the judicial system. As of mid-year former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio remained in custody, and the Supreme Court of Justice continued to consider which of the anticorruption courts should handle the proceedings.

In August the prosecutor's office dropped its case against former president Alan Garcia and members of his cabinet for their roles in the 1986 *El Fronton* prison massacre. COMISEDH appealed this decision, and the First Supraprovincial Court investigated possible charges against authorities allegedly responsible for the loss of life at El Fronton.

In August 2004 the Supreme Court of Justice ruled that the case involving a 1980 massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, be tried by civilian courts, since it dealt with human rights violations. At year's end the case was being handled by the National Criminal Court, which scheduled oral proceedings to begin in February 2006.

The terrorist group Shining Path continued to kill civilians as well as military and police officials. There were 60 reported terrorist incidents during the year, the most serious of which occurred in Junin, Huanuco, San Martin, and Ayacucho. During the year members of Shining Path killed 17 policemen, 5 civilians, and 1 judge. For example in July, members of Shining Path killed four civilians, one policeman, and one judge in two separate incidents in Satipo Province and Tocache Province.

*b. Disappearance.*—There were no reports of politically motivated disappearances. There were no new developments in the case against Peruvian National Police (PNP) Commander Juan Carlos Mejia Leon and several PNP officers charged with the 2003 kidnapping of Ernesto Rafael Castillo Paez, a student detained by the PNP for being a suspected terrorist in 1990 who subsequently disappeared.

There were no new developments in the trial of 11 policemen for the 2003 disappearance of Andy Williams Garces.

In September oral proceedings began against four members of the security forces charged with the 1990 kidnapping and disappearance of Ernesto Rafael Castillo Paez.

The Shining Path committed kidnappings. In November a group of heavily armed Shining Path members kidnapped 10 employees of a foreign development contractor in Huanuco Department. The abductors later released the employees but threatened to kill them if they returned to the area.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there continued to be reports of torture of detainees, excessive use of force against protesters, and abuse of military recruits. The authorities seldom held responsible those who allegedly committed abuses.

Torture often occurred immediately following arrest, when families were prohibited from visiting suspects held incommunicado, and when attorneys had limited access (see section 1.d.).

In some cases police and security forces threatened or harassed victims, their relatives, and witnesses to keep them from filing charges of human rights violations. According to COMISEDH, some victims were reluctant to pursue judicial proceedings against their abusers, fearing that the abusers would be released without being charged. COMISEDH reported 14 cases of aggravated torture by security forces from January to September, compared with 22 cases in total during 2004. Human rights observers noted that the torture cases normally were not the result of orders from central authorities, but rather represented brutal practices that originated during the campaign against terrorism in the 1980s and 1990s.

On February 21, police beat Juan Zemudio Bocangel until he was unconscious after Zemudio broke a police car window. In July the third supraprovincial prosecutor of Lima charged two police officers, Cesar Augusto Chavez Aguilar and Jose Ben, with aggravated torture.

On April 9, police in La Victoria, Lima, beat Wilmer Cubas Carranza until he was unconscious after Cubas attempted to intervene on behalf of a detained friend. COMISEDH was investigating the case at year's end.

The January 2004 case of John Robert Osorio Morales, who was detained and beaten by police, was transferred in July to the third supraprovincial prosecutor of Lima for further investigation.

During the year COMISEDH examined the July 2004 case of Army soldier Misael Meondoza Carrion, who allegedly was beaten by a superior officer for refusing an order. Mendoza is slowly losing his hearing as a result of the abuse. The 11th provincial prosecutor of Lima's Northern Cone continued to investigate the case at year's end.

In September the National Penal Court, formerly the National Terrorism Court, accepted the August 2004 case of Pablo Fabio Sanchez Conde, who was allegedly tortured by police officers after being detained along with his brother, Miguel. COMISEDH charged that the two also suffered threats from the same police officers accused of abusing them.

A COMISEDH investigation continued in the November 2004 case of Simeon Gonzalez Illescas, a street vendor who was allegedly beaten by several municipal watchmen of Lima's La Victoria section for refusing to pay a local tax.

There were no significant developments in the investigation of the following cases from 2003 involving prison guards: the beating of Wilber Escobedo; the alleged torture of an inmate at Challapalca prison; and the alleged torture of Miguel Angel Vela del Aguila.

The 2003 case involving six members of community self-defense groups allegedly tortured by police remained in the instruction phase, and the six were released under their own recognizance.

In November the judge in the 2002 case of alleged police torture of Renzo Vega Hidalgo dismissed the case. COMISEDH appealed the decision and the case remained in process at year's end.

In May the prosecutor issued formal charges of torture against police for the 2002 beating of Jair Martin Rodriguez and his brother. At COMISEDH's urging, the case was remanded to the National Penal Court in July where oral proceedings had begun by year's end.

In February the presiding judge found six prison guards accused of beating inmate Alfonso Valle Oquendo in 2002 guilty. The defendants appealed the decision, and the case continued at year's end.

Nongovernmental organizations (NGOs) and the human rights ombudsman continued to monitor the treatment of army recruits. Unlike in previous years, there were no reports that officers beat, abused, or killed lower-ranking soldiers (see section 1.a.).

In February the Supreme Court of Justice reviewed the 2002 case of Raul Ochoa Ravello, who allegedly assaulted a soldier, Noe Moises Canales Salazar. The court changed the charges against Ochoa from torture to infliction of injury that lead to death. The Supreme Court of Justice sent the case back to its original court in Piura for additional deliberations.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons suspected of committing offenses such as robbery, burglary, rape, and child molestation. According to police statistics, during 2004 there were almost 2 thousand such incidents, resulting in 19 deaths. The majority occurred in the countryside, although Lima registered an increase (to 695) of cases where mobs seized and punished suspected thieves. Local experts explained that lack of police presence and lack of faith in the justice system had led to outbreaks of violence against suspected criminals. Persons seized were beaten, tied to lampposts, and sometimes sprayed with gasoline and set afire.

*Prison and Detention Center Conditions.*—Prison conditions varied greatly. For prisoners without funds, conditions were poor to extremely harsh in all facilities. Prisoners with funds had access to a range of amenities. For example, they could dine in restaurants within the prisons or could receive meals sent from the outside. Overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Inadequate training of security forces and lack of control within the prison system also were serious problems. Inmates in all prisons had intermittent access to running water; bathing facilities were inadequate; kitchen facilities remained generally unhygienic; and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels. For regular inmates, prison authorities budgeted approximately \$1 (3.14 soles) per prisoner per day for food. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7 thousand prisoners lived in a facility built to accommodate 1,500.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

Conditions were particularly harsh in maximum-security facilities located at high altitudes. During the year the government responded to criticisms from human rights monitors, including Amnesty International, and permanently closed the Challapalca Prison in Tarata, Tacna.

Prison guards and fellow inmates routinely victimized and abused prisoners. Corruption was a serious problem among poorly paid prison guards. Some guards, for example, cooperated with criminal bosses inside prisons, who oversaw the smuggling of guns and drugs into the facilities.

Lax controls over inmates and overcrowding contributed to a severe prison riot at the San Juan de Lurigancho Prison on February 8, which resulted in 5 inmate deaths and 25 injuries. Prison experts warned that anarchy in Lurigancho could not be solved without reforms to the clogged and corrupt judicial system. Press investigations following the riots indicated that prison conditions permitted some incarcerated criminals to use jail time to plan and benefit from crimes committed by accomplices outside the prison system.

Detainees were held temporarily in pretrial detention centers located at police stations, judiciary buildings, and, in large cities, at the public ministry.

Pretrial detainees were held together with convicted prisoners in most cases.

The government permitted prison visits by independent human rights observers, including the ICRC. The ICRC made 167 unannounced visits to inmates in 65 different prisons, detention centers, and juvenile detention facilities.

*d. Arbitrary Arrest or Detention.*—The constitution, criminal code, and antiterrorist statutes prohibit arbitrary arrest and detention, although the organic law of the PNP permits police to detain a person for any investigative purpose. The law requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. Only judges may authorize detentions, including in corruption cases. Authorities are required to arraign arrested persons within 24 hours. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable.

*Role of the Police and Security Apparatus.*—The PNP, with a force of 90,385, was responsible for all areas of law enforcement in the country and functioned under the authority of the Minister of the Interior. The PNP's personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a mixture of directorates that specialize in specific areas (such as kidnapping, counternarcotics, and terrorism) and local police units. Each department, province, city, and town has a PNP presence.

Experts noted that the PNP was undermanned, had problems with professionalism, was often ineffective against common criminal activity, and unable at times to meet its mandated responsibilities, such as witness protection. Corruption and impunity were problems.

The interior ministry and the PNP attempted to address these weaknesses. The Green Squad police unit continued to be effective in raiding clandestine brothels that were often engaged in trafficking in persons and other crimes (see section 5). During the year the PNP shifted more police officers from administrative duties to police stations and to units responsible for patrolling the streets.

*Arrest and Detention.*—The law requires police to file a report with the public ministry within 24 hours whenever a suspect is arrested while committing a crimi-

nal act. The public ministry, in turn, must issue its own assessment of legality of police actions in the arrest.

Persons are apprehended openly with a warrant issued by a judicial authority. The law also provides the right to prompt judicial determination. An average of 20 hours elapsed between the time that a person was detained and the person's appearance before a judge. Judges have two hours to decide whether to release or continue to detain the suspect. There was a functioning bail system; however, economic limitations prevented many defendants from posting the required payments. Criminal detainees are allowed prompt access to a lawyer and to family members. The justice ministry provided indigent persons with access to attorneys' advice at no cost.

Persons detained for espionage, drug trafficking, corruption, and terrorism may be held for up to 15 days. Police may detain terror experts for incommunicado for the first 10 days. The public ministry oversees the detention centers, whose conditions also are monitored by the ombudsman's office.

In practice authorities did not enforce the foregoing legal norms. Persons detained in remote areas sometimes were held for longer periods due to difficulties in getting access to counsel and formulating charges. Some remote, rural police stations also lacked basic facilities. Oversight of pretrial detention centers generally was more effective in the cities than in rural areas.

There were no reports of political detainees.

Lengthy detention before trial and sentencing continued to be a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System (CERIAJUS), of 29,581 persons held in prison, 31 percent had been sentenced, while 69 percent were cases still being tried. If prisoners are held more than 18 months (or 36 months in more complex cases) without being sentenced, they are released.

During the year the Lima Superior Court implemented various measures to streamline case-handling and accelerate trial processing, including improvements in case management and a requirement that case files be sent to the prosecutor on a daily basis for evaluation in regard to pretrial detention.

During the year the executive branch established a commission to create an implementation plan for the new criminal procedures code, which was approved in July 2004 to create an accusatory system for criminal cases. The commission's plan called for the gradual implementation of the new code over a 5-year period, beginning in 2006.

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

The three-tier court structure consists of lower and superior courts, and a Supreme Court of Justice of 30 judges. A constitutional tribunal of seven members operates independently of the judicial branch. The independent National Judicial Council (CNM) appointed, disciplined, and evaluated all judges and prosecutors who have served in their position for seven years or more. Failure to be certified by the CNM disqualified a judge or prosecutor from working in that capacity again.

In May the government presented a report recognizing that the CNM's procedures violated the due process criteria of the Inter-American Commission of Human Rights (IACHR). Consequently, the government agreed to the following remedial measures: an indemnity of \$5 thousand (17,200 soles), the establishment of a new evaluation procedure that would take place within five months of settlement of the dispute, and the reincorporation of formerly disqualified justices into their former positions or those of a similar level.

Judicial reform remained a government priority, but implementation was irregular. During the year some of CERIAJUS' recommendations were put into practice. Congress approved 13 of 52 legal proposals put forward by CERIAJUS, among these a proposal to create a special commission dedicated to following up on the proposed reforms. The judiciary created the first seven judgeships for a special commercial court and continued to post an estimated nine thousand Supreme Court of Justice decisions on its Web site. Superior court justices and their administrators also received special training in public administration.

In addition the CNM approved new regulations (including suggestions from civil society) for the selection of judges and prosecutors.

Witness protection remained a significant weakness of the justice system. The National Coordinator for Human Rights, an umbrella Human Rights NGO, documented 45 cases of attacks on witnesses during the year. In February a witness in the case of accused narcotics trafficker Fernando Zevallos was attacked, and on June 1, for the third time in 15 months, unknown assailants attempted to kill Luis Alberto Ramirez, the key witness in the trial of General Luiz Perez.

*Trial Procedures.*—The justice system is based on the Napoleonic Code. The prosecutor investigates cases and submits an opinion to a first instance judge, who determines whether there is sufficient evidence to open legal proceedings. A judge conducts an investigation, determines facts, guilt or innocence, and issues a sentence. All defendants enjoy a presumption of innocence, have the right to be present at their trial, have the right to counsel, and may call witnesses. The public defender system often failed to provide indigent defendants with qualified attorneys. Defendants may appeal to the superior court and then to the Supreme Court of Justice.

Under the military justice system, judges in the lower courts may sentence and must pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within five days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

In August 2004 the Constitutional Tribunal ruled that the military-political commands created to maintain order during states of national emergency were unconstitutional. At year's end the revisions necessary to bring the Code of Military Justice into line with these decisions were being worked on by a commission set up by the executive that included representatives of the ministries of justice and interior, the judiciary, and the public ministry, and three judges.

During the year in accordance with the decisions of both the IACHR and the Constitutional Tribunal, the Special Terrorism Court continued to re-try defendants previously convicted by military tribunals. The National Penal Court handed down 250 sentences. Another 307 cases remained to be decided. The National Penal Court convicted 65 percent of those accused. It absolved 600 persons as a result of sentences completed, time off granted for cooperation, or lack of substance to the charges against them. At the end of 2004, there were 1,400 persons in prison sentenced for having committed acts of terrorism. The trial of Shining Path leader Abimael Guzman in civilian court was ongoing at year's end.

During the year the Constitutional Tribunal handed down two sentences with important human rights implications. In the first, the tribunal reiterated the principle that civilian courts rather than military ones should handle human rights cases. In the second, it found that disappearances constituted a "permanent crime" and therefore were not subject to a statute of limitations.

During the year the National Penal Court reopened cases involving violations concerning various massacres and abuses attributed to security forces during the war against the Shining Path in the 1980s and 1990s, including such cases as Accomarca, Cayara, Chuschi, the deaths in Los Cabitos, and the deaths of various students in Huancayo. The courts also processed 50 cases involving accusations of torture.

In June and July, the Accomarca and Cayara cases attracted particular attention when the judges ordered the arrest of 147 military figures in the 2 cases. Despite the order, the PNP did not detain many of them, which the press interpreted as reluctance of the PNP to confront the military. PNP sources explained that the arrests were in progress and that military authorities were responsible for detaining active duty military officers. The judges continued to work with the military, but the situation remained unresolved at year's end.

As a follow-up to the recommendations put forward by the Truth and Reconciliation Commission (TRC), the NGO Institute for Legal Defense, in cooperation with the Special Terrorism Court and the Superior Courts of Lambayeque, Ayacucho, and Junin, continued efforts to reduce the large case backlog involving those officially sought for acts of terrorism.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, there were reports that the authorities did not always obtain warrants before entering private dwellings.

Unlike in previous years, COMISEDH received no reports of forced military recruitment.

The Shining Path continued to coerce indigenous persons to join its ranks (see section 5).

## *Section 2. Respect for Civil Liberties, including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet; however, there were multiple reports of press harassment by provincial authorities or by private groups or

organizations such as protesting coca growers (*cocaleros*). Harassment took the form of attacks on journalists, illegal arrests, or threats of judicial action.

The independent media were active and expressed a wide variety of views. All were privately owned except for one government-owned daily newspaper, two government-owned television networks, and one government-owned radio station.

On February 15, the government published the regulations for the Radio and Television Law, which congress had approved in July 2004. On July 8, the government named the members of the transportation and communications ministry's Advisory Council, which will regulate the implementation of the law.

Journalists and media outlets reportedly suffered intimidation during the year. The National Journalists Association reported 115 cases of harassment (mainly in the provinces). The Press and Society Institute issued 59 alerts. Both statistics were slightly lower than figures from 2004 (121 and 69, respectively). The majority of these incidents took the form of violent attacks, threats, judicial pressure, illegal arrests, and robbery of broadcasting equipment and journalists' files. Many cases resulted from the general lack of effective state presence in many parts of the country, a factor that rendered journalists vulnerable to attacks from a variety of sources.

On March 2, Mayor Leopoldo Inga and other local officials of the Alto Amazonas Province in Loreto attacked and threatened Jose Antonio Simons, the director of Yurimaguas' *El Huinsho* magazine. The officials seized a videotape he had made of a meeting between officials and a provincial public prosecutor.

On April 12, police officer Joel Bardales beat Cesar Hildebrandt Jr., a reporter with Lima's Channel 2 television program *La Ventana Indiscreta*, for investigating alleged illegal enrichment by his sister, Lady Bardales. During the attack, Hildebrandt's video camera and several documents in his possession were stolen.

On April 15, Miguel Angel Carpio, a reporter with the Tocache's television program *El Informe* and for the radio station Marginal, was forced to leave Tocache because a *cocalero* association threatened to kill him for allegedly selling a video to the government. The video showed *cocalero* leader Nancy Obregon admitting that an important portion of coca production was sold to drug traffickers. Carpio denied the sale of the video.

On May 2, Congressman Victor Valdez beat Rufino Zambrano, a reporter with Pucallpa daily *Ahora*. Valdez had sued Zambrano for allegedly falsely reporting about the congressman's activities.

On May 4, Lima judge Alfredo Catacora ruled that US reporter Jane Holligan and British reporter Sally Bowen had defamed narcotics trafficker Fernando Zevallos. Holligan and Bowen had collaborated on a book, *The Imperfect Spy*, in which they cited sources that named Zevallos as a drug trafficker. On June 27, a Lima Criminal Superior Court voided Catacora's sentence because of procedural irregularities. The case was sent to a new judge, and a final ruling was pending at year's end.

On July 17, Cecilia Valenzuela, director of the television program *La Ventana Indiscreta*, broadcast a phone threat received on July 9, in which a woman demanded that Valenzuela stop investigating the national police and the interior minister.

Congressman Jorge Mufarech's January 2004 one million dollar (3.44 million soles) lawsuit against *Correo* journalist Pedro Salinas for alleged defamation continued. In November 2004 a court acquitted Salinas. During the year Mufarech appealed the decision, and the case continued at year's end.

On June 19, Dina Ramirez of Yungay charged that she had received death threats. Ramirez's husband, journalist Antonio de la Torre, was killed in February 2004 by David Moises Julca, who allegedly was acting at the behest of his fiancée's father, local mayor Amaro Leon. On December 14, authorities sentenced Leon and his driver, Pedro Angeles, to 17 years' imprisonment. Police continued their search for Julca at year's end.

On August 3, a Pucallpa prosecutor accused four men of involvement in the killing of Pucallpa *Frecuencia Oriental* radio announcer Alberto Rivera. Unknown persons killed Rivera in April 2004, a day after he had described alleged links between Coronel Portillo provincial Mayor Luis Valdez and drug traffickers. Samuel Gonzales Pinedo, one of those detained by authorities, offered testimony in mid-September that implicated Mayor Valdez and others in the mayor's circle. The Pucallpa court continued its investigation at year's end.

On June 16, a Lima judge acquitted publisher of Lima daily *El Comercio*, Alejandro Miro Quesada Garland, and three of his staff in a \$100 million (346 million soles) defamation suit filed by narcotics trafficker Fernando Zevallos in May 2004.

On January 17, the judiciary ratified the arrest order of journalist Alvaro Vargas Llosa, who had been sued for defamation by Adam Pollack in 2001.

On July 5, an arbitration board ruled that the government must pay Baruch Ivcher, owner of Channel 2, \$6.2 million (21.3 million soles) for damages he had suffered when the Fujimori administration seized his television station in 1997.

On January 26, the judiciary sentenced several former directors of the pro-Fujimori dailies to five years in prison for selling their editorial support to the Fujimori administration. Those sentenced were Moises and Alex Wolfenson, Jose Olaya, Alejandro Estenos, Fernando Oliveri, Pablo Documet, and Jorge Rivera. Other press figures received lesser sentences or avoided punishment because they remained outside the country. The government pursued the extradition of several of these figures, including Eduardo Calmell del Solar, Jose Enrique and Jose Francisco Crousillat, and Ernesto Schutz.

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly, and the government generally respected this right in practice.

Although the law does not require a permit for a public demonstration, organizers must inform the Ministry of Interior's political authority (prefect) about the type of demonstration and its location. Demonstrations may be prohibited for reasons of public safety or health. The police used tear gas and occasional force to disperse protesters in various demonstrations.

Although most demonstrations were peaceful, protests in some areas turned violent and blocked essential thoroughfares.

On January 1, a pro-cocalero group, the Ethno-Caceristas, seized a police station in rural Andahuaylas, killing four police officers. After several days, authorities took back the station and captured Ethno-Cacerista leader Antauro Humala, who remained in jail along with several of his followers awaiting trial at year's end. In May an agricultural strike affected commerce in 10 regions as farmers compelled the government to buy surplus crops, mostly corn and potatoes, at prices over market value.

Mining activities were frequently the target of protesters who turned violent. On May 24 anti-mining protesters in Espinar seized part of the Tintaya Mine's facilities. The protesters vandalized the mine's offices before vacating the premises, causing mine operations to be suspended for one week.

The ombudsman's office issued monthly reports noting the prevalence of rural unrest regarding a variety of issues, including mining operations, border disputes, as well as strike actions and road blockages by farmers seeking higher prices for their crops.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. The Catholic Church and Catholic clergy received extra benefits from the government in education, taxation of personal income and institutional property, and remuneration. By law the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel. These factors continued to raise concerns about unequal treatment of non-Catholics military personnel.

Churches may register voluntarily with the Office of Ecclesiastical Affairs in the Ministry of Justice to receive tax benefits and exemption from import duties on religious materials.

The Ministry of Education requires Catholic religion courses in all public and private primary schools, although parents may request an exemption by writing to the school principal.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts, during the year.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the law provides for these rights of free movement, authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police may check travelers at control points throughout the country.

The Shining Path occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga, Apurimac, and Ene River valleys. Protesting farmers on occasion also blocked roads in an attempt to pressure the government to purchase surplus crops.

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



While the law prohibits the revocation of citizenship, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the state, national defense, and public security, as well as for reasons that “affect the public interest and the national interest.”

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared prosecution. The government granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees in granting refugee status and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The government provided protection to political refugees on a renewable, year-to-year basis. During the year the CMC rejected refugee requests from 23 persons.

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

The law provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of mandatory voting and universal suffrage. Members of the armed forces and the police may now vote.

*Elections and Political Participation.*—In 2001 Alejandro Toledo assumed the presidency in elections that generally were considered free and fair. The two principal parties represented in the 120-member Congress were Peru Posible (33 seats) and the Popular American Revolutionary Alliance (28 seats).

Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. The presidential term is five years, and the law prohibits the immediate reelection of a president. Groups that advocate the violent overthrow of the government are barred from participating in the political process.

There were 22 women in the 120-member congress and 4 female regional presidents. Approximately 3 percent of the mayors and 25 percent of the city council officers elected at the local level were women. There were 2 women in the cabinet; the attorney general was a woman; and there was 1 woman on the Supreme Court of Justice. The Law on Political Parties mandates that at least 30 percent of the candidate lists for electoral offices at all levels be women.

It was rare for indigenous persons, who make up more than 33 percent of the population, to hold high public office. Congress had one self-declared indigenous member. Three congressmen represented the black minority, estimated to be 3 to 5 percent of the population, but there were no blacks in the cabinet.

*Government Corruption and Transparency.*—Corruption remained a major problem, which the government took steps to address.

In December 2004 President Toledo appointed a new ad hoc anticorruption prosecutor, Antonio Maldonado. During the year Maldonado reorganized the ad hoc prosecutor's office and created a computerized database to improve tracking corruption cases from the Fujimori-Montesinos era as well as more recent cases.

Despite these advances, the pace of anticorruption prosecutions remained a concern. Following more than 3 years of investigations, the anticorruption courts concluded 20 of 205 cases. Authorities accused 1,492 persons of corruption, detained 87, and placed another 87 under house arrest. Approximately 62 percent of the cases remained in the instructions or investigations stage. Human rights activists and civil society actors noted that the law permits 36 months of detention without sentencing, opening the possibility that some of those accused could be freed unless their cases were handled promptly.

On July 9, newspaper publishers Moises and Alex Wolfenson, on trial for press and media corruption during the Fujimori era, were released as the result of a Supreme Court of Justice decision that applied a new law equating house arrest with prison sentencing in calculating the amount of time served. Two weeks after their release, the Constitutional Tribunal found the new law unconstitutional, and the Wolfensons returned to detention. Congress subsequently revoked the law.

The law provides for public access to government information, and most ministries and central offices provided key information on their web pages. However, implementation of the law was incomplete, particularly in rural areas. In addition there was a widespread lack of awareness of the law, and relatively few citizens understood and exercised their right to information. Through a yearly report, the ombuds-

man encouraged regional governments to adopt transparency-promoting practices. The ombudsman also oversees regional governments' compliance with a legal requirement that compels them to hold public hearings at least twice a year on their activities.

On July 10, the Peruvian Press Council (CPP) requested that the president review a new intelligence law that the CPP asserted contradicted the Law of Transparency and Access to Public Information. The CPP stated that the intelligence law defined national security in ambiguous terms and mandated excessive prison terms for the publication of confidential government information.

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

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

According to COMISEDH, military commanders continued to deny access to military facilities to human rights observers. To obtain information about activities in those areas, NGOs had to work through the ombudsman's office.

The government continued to implement recommendations in the 2003 TRC report, which noted that approximately 69 thousand persons died during the armed conflict of 1980–2000. During the year authorities issued formal charges in a number of cases brought by the government, involving some 300 military and former military figures. The government also asked the NGO Center for the Promotion and Development of Populations (CPDP), headed by TRC member and Shining Path expert Carlos Tapia, to design a plan for reparations. Most of CPDP's recommendations involved collective reparations for the zones affected by the violence. Some former TRC members and many human rights NGOs lobbied for the creation of a victim registry and some form of individual reparations. The government had not implemented any recommendations at year's end.

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

While the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted. There was progress in a number of areas.

*Women.*—Violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse was a chronic problem. Abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward female victims.

The law prohibits domestic violence, and penalties range from 1 month to 6 years in prison. The law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to women and children who are victims of domestic violence.

Ministry of Women and Social Development (MIMDES) centers reported 25,863 cases of domestic violence during the year. The centers attended an average of 2,500 men and women per month. MIMDES also operated a toll free hot line, which handled 8,892 requests for assistance regarding family disturbances.

Women's organizations noted that alcohol abuse and traditional attitudes toward women aggravated the problems of rape and sexual abuse, particularly in rural areas.

MIMDES and NGOs stated that many domestic abuse cases never were reported. NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse or because of the cost involved in pursuing a complaint. In addition legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

MIMDES ran the Women's Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. MIMDES operated 39 centers, which brought together representatives of various government institutions, including police, prosecutors, counselors, and public welfare agents, charged with helping victims of domestic violence.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence. Nonetheless the national ombudsman's office continued to com-

plain that officers reacted indifferently to charges of domestic violence, despite legal requirements that all police stations receive such complaints.

The law criminalizes rape, including spousal rape, and the government enforced the law effectively. The law also provides penalties for those who derive financial benefits from trafficking in persons, Internet child pornography, and sexual tourism involving children. Penalties for pimps and clients of underage prostitutes range from four to eight years in prison.

Prostitution is legal for women over 18 years of age if they register with municipal authorities and carry a sanitary certification. In practice the vast majority of prostitutes worked in the informal sector where they lacked health protection. NGOs reported that traffickers lured increasing numbers of underage women into prostitution (see section 5, Trafficking).

Sexual harassment was a problem. The law defines sexual harassment as a labor rights violation subject to administrative punishment. Punishments differ depending on the professional situation where the violation takes place, such as in education or the private sector, domestic service, the armed forces, and the police.

The law provides for equality between men and women and prohibits discrimination against women relative to marriage, divorce, and property rights. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited, although they continued to occur in practice. The law prohibits the arbitrary dismissal of pregnant women.

Traditional assumptions and misconceptions often impeded access to leadership roles for women in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies, where, by law, they are to receive equal pay for equal work. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

Women's rights groups, such as Flora Tristan and Manuela Ramos, studied discrimination against women and suggested ways to address this problem, which often involved education and efforts to change traditional attitudes.

*Children.*—The government was committed to children's rights and welfare.

Education was free and compulsory through secondary school and generally was available throughout the country, although there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books often were prohibitive for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and adolescents worked during daytime hours rather than attending school. Children living in poverty averaged 7.8 years of education, compared with 9.4 years for children living above the poverty line. Based on 2001 population data from the National Institute of Statistics and Information (INEI), 92 percent of children ages 6 to 11 attended school, as did 66 percent of adolescents between 12 and 17 years of age. School nonattendance was highest in rural and jungle areas.

The Ministry of Education operated night schools for working adolescents and continued a tutorial program in the daytime schools, whereby teachers provided extra help to working students. During the year the ministry also initiated a program to teach children their rights, so they would be better able to defend themselves from exploitation.

The latest INEI reports for 2004 indicated a decline in the rate of extreme poverty from 33 percent in 2002 to 26 percent in 2004. The government's integral health security program offered poor mothers and infants as well as school-age children access to health care. The program includes children not attending school. Boys and girls had equal access to health services under this system.

Violence against children and the sexual abuse of children were serious problems. Based on information from its women's emergency centers, MIMDES reported that during 2004 there were 769 cases of violence or sexual abuse of children 5 years of age and under; 1,879 cases for children ages 6 to 11; and 2,721 cases for children ages 12 to 17.

NGOs noted that many abuse cases never were reported to the authorities, since many persons believed that such problems belonged within the family and should be resolved privately. The Women's Emergency Program worked to address the problems facing children who were victims of violence.

The Children's Bureau of MIMDES coordinated child- and adolescent-related government policies and programs. At the grassroots level, 1,312 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 46 percent of these offices, while schools, churches, and NGOs ran the remaining 54 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the

country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the public ministry. Settlements adjudicated by these offices legally were binding and had the same force as judgments entered by a court of law.

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

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

*Trafficking in Persons.*—Trafficking statutes prohibit trafficking in persons and provide penalties for those who move a person, either within the country or to an area outside the country, for the purposes of sexual exploitation (including prostitution, sexual slavery, or pornography) from 5 to 10 years' imprisonment. If the trafficking victim is under 18 years of age, the punishment is 10 to 15 years' imprisonment. Laws prohibiting kidnapping, sexual abuse of minors, and illegal employment were enforced and also could be used to punish those who trafficked persons.

During the year the women's ministry took the lead in combating trafficking in persons.

MIMDES brought together local police, judges, NGOs, and others into a Campaign against Child Sexual Exploitation (CCSE) in Iquitos. In April MIMDES sponsored a seminar that approved an intervention model for police operations against trafficking and CCSE.

MIMDES also organized a publicity campaign with the tourism ministry (MINCETUR) to promote awareness in Iquitos. MINCETUR provided domestic airlines with an in-flight video and distributed flyers at airports warning tourists that sex tourism can result in lengthy prison sentences.

From August to November, the International Labor Organization (ILO) co-sponsored a CCSE training program for police in six cities (Lima, Iquitos, Cusco, Tarapoto, Chiclayo, Tacna). NGO representatives noted that the PNP had incorporated the course into the police academy's official curriculum.

The Multi-Sectoral Committee, a collaboration between government ministries and domestic and international NGOs, took a number of actions against traffickers. PNP officers repeatedly raided clandestine brothels, resulting in the rescue of a number of young women who were returned to their families. At year's end one international trafficker remained under arrest and awaited trial. Authorities detained other domestic traffickers in raids and then released them pending investigation.

On December 29, authorities sentenced Congressman Torres Ccalla to eight years in prison on charges of rape for his relationship with an underage woman. Torres Ccalla had brought the young girl to Lima from his home district of Puno, allegedly to work in his office.

Maria Yataco, allegedly linked to a ring of persons who trafficked women to Japan, remained in custody, and authorities levied additional charges against her.

There were no significant developments in the case of Liliana Mendoza, a trafficking victim rescued from a brothel in Trujillo by PNP and NGO representatives in 2003.

Although there were no authoritative estimates on the extent of trafficking, there were reports that persons were trafficked from and within the country.

Trafficking to Spain and, particularly, to Japan operated through organized criminal networks.

Internal trafficking was a far greater problem. NGOs and international organizations maintained that significant domestic trafficking occurred, particularly to bring underage women from the Amazon district or the sierras into the cities or into mining areas to work as prostitutes or to work in homes as domestics. This trafficking took place through informal networks that could involve boyfriends and even the families of the young women victims.

The government coordinated its antitrafficking activities with NGOs. A Catholic order of nuns, the Sisters of Adoration, operated 3 programs for underage female prostitutes, a live-in center for approximately 75 girls (and 20 children of the victims) in Callao and 2 other walk-in centers in Lima. All facilities offered medical attention, job training, and self-esteem workshops in an attempt to remove underage girls from the streets. The government's Institute for Adolescents and Children provided the Adoring Sisters with the live-in facility and paid for utilities and food.

The International Migration Organization operated a hot line within the Ministry of Interior to receive information on incidents of trafficking in persons as well as promoted information campaigns and training of government officials in trafficking issues.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities and provides for "protection, care, rehabilitation, and security." The law also mandates that public spaces be barrier-free and buildings be architecturally ac-

cessible and provides for the appointment of a disability rights specialist in the human rights ombudsman's office.

Despite an increased focus on persons with disabilities, the government devoted few resources to efforts in this area. Many persons with disabilities remained economically and socially marginalized.

Although the law prohibits discrimination in the workplace, it does not specify sources of funding for programs to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access for persons with disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recordings for the blind. On May 25, the government published a law that required public organizations and universities to make their Web pages usable by blind persons employing software that would read aloud web page content. The law established a period of 120 days for these institutions to implement the necessary changes or face a \$2 thousand fine (6,440 soles). Observers worried that the law, while well-intentioned, might not be enforced.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Some private companies operated programs to hire and train persons with disabilities, and a private foundation provided small loans to persons with disabilities to start businesses. Nevertheless, such persons faced discrimination by potential employers.

*National/Racial/Ethnic Minorities.*—The law provides all citizens equality before the law and forbids discrimination, including for reasons of race, origin, and language. The law criminalizes racial discrimination. The country's population included several racial minorities, the largest of which were persons of Asian and African descent. Blacks tended to be concentrated along the coast, often faced discrimination and social prejudice, and were among the poorest groups in the country. Black civil rights groups contended that official surveys and censuses did not accurately reflect their numbers.

Blacks generally did not hold leadership positions in government, business, or the military. Both the navy and the air force were believed widely to follow unstated policies that minimized the number of blacks in the officer corps. Although the law prohibits newspaper employment advertisements from specifying the race of the candidates sought, NGOs alleged that employers often found discreet ways to refuse jobs to blacks or to relegate them to low-paying service positions. Employers frequently required job applicants to submit personal photos to ensure that they had the correct "presence" for desired jobs. While the law prohibits various forms of discrimination by retail establishments against prospective customers, the law did not deter discriminatory practices. Blacks often were portrayed unflatteringly by the entertainment industry as individuals of questionable character or as comedic stereotypes.

During the year civil society elements and the government cooperated to limit discrimination based on color. The Lima-based human rights coordinator formed an antiracism working group composed of several human rights NGOs. The group carried out demonstrations, published articles and, in March, highlighted companies that used racist and socially excluding images in advertising.

On August 26, a special consumer rights court fined a Lima-based upscale disco for practicing racial discrimination against consumers by denying access to the facility to some citizens based on their appearance. The ruling required follow-up investigations to assure that the disco did not resume discriminatory practices.

*Indigenous People.*—Although the law prohibits discrimination based on race and provides for the right of all citizens to speak their native language, most indigenous people and *mestizos* with indigenous features faced pervasive societal discrimination and prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision-making directly affecting their lands, culture, traditions, and the allocation of natural resources. Pervasive discrimination and social prejudice intensified perceptions of inferiority and second-class citizenship. Many indigenous people lacked basic identity documents that normally would identify them as full citizens and enable them to play an active part in society (see section 5, Other Societal Abuses).

Other factors contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and inadequate communications infrastructure in the highlands and in the Amazon jungle region made political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limited the access and

participation of indigenous people in society. The UN Children's Fund (UNICEF) reported that indigenous people in rural areas did not have equal access to public services, particularly health and education: 90 percent lived in poverty; only 39 percent completed primary school; and there were higher child and maternal mortality in indigenous areas, where only 20 percent of births took place in public health centers.

The indigenous population of the Amazon region, estimated at between 200 thousand and 300 thousand persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the indigenous communities had a spiritual relationship with their land, and the concept of land as a marketable commodity was alien to them. Nevertheless, according to the director of the human rights ombudsman's Native Communities Program, the only right still statutorily set aside for this indigenous population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands were not prohibited.

Indigenous groups continued to resist encroachment on their native lands. Many indigenous people did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the state; this problem led to conflicts between mining interests and indigenous communities.

On April 15, President Toledo signed a decree creating the National Institute of Development for Indigenous Peoples (INDEPA), which replaced the National Commission on the Amazon Region and Indigenous and Afro-Peruvian Affairs. INDEPA would promote government policies on the rights of indigenous people and coordinate between the government and indigenous organizations. INDEPA has ministry-level status and would be directed by a government council made up of representatives from different ministries, NGOs, and representatives elected by indigenous communities. Unlike its predecessor, INDEPA would have its own budget.

The Shining Path continued to be a leading violator of the rights of indigenous people. The terrorist group coerced indigenous peasants into joining its ranks and demanded war taxes. Terrorist pressure on indigenous communities continued during the year.

*Other Societal Abuses and Discrimination.*—The law provides all persons with the right to a name, nationality, and legal recognition, and the exercise of civil, political, economic, and social rights; however, sources estimated that more than 1 million undocumented citizens, including at least 312 thousand women, had no identity documents and thus were unable to avail of these rights. An estimated 15 percent of births were unregistered, and 95 thousand persons a year were born without a birth certificate. Poor indigenous women and children in rural areas were highly over-represented among those lacking basic identity documents.

Undocumented citizens were marginalized socially and politically and had difficulties accessing government services. They also faced barriers to registering their children, becoming candidates for political office, or holding title to land and homes.

One of the most significant obstacles to obtaining a National Identity Document (DNI) was the requirement to present supporting documents, such as a birth certificate and a public utility receipt, to DNI authorities. Women in rural areas who did not give birth at health establishments did not receive the certificate of live birth required for obtaining the birth certificate. These women also faced obstacles in retroactively obtaining a birth certificate. In an effort to lower infant mortality, the Ministry of Health fined women who did not give birth in clinics or hospitals. In many rural areas, these women could not pay the fines and, consequently, did not register their children.

On February 17, MIMDES, the National Office for Registry and Identification, the National Institute for Adolescent and Child Welfare, various utilities, the Catholic Church, and a variety of private companies, began the "National Crusade for the Right to a Name." The campaign would raise parents' awareness about the importance of getting birth certificates for their children. The coalition also carried out numerous events dedicated to public education and the training of local officials to promote universal birth registration. The coalition noted that an additional 21 thousand births were registered as the result of its activities.

Despite the absence of formal prohibitions, homosexuals faced extensive discrimination. There were indications during the year that homosexual rights gained a higher profile. On July 16, several hundred lesbians, homosexuals, and bisexuals marched in downtown Lima for the fourth consecutive year. Congresswoman Cecilia Tait, author of a draft law prohibiting sexual discrimination, addressed the marchers. Press reports announced the formation of a group of parents of homosexuals de-

signed to promote understanding of homosexual family members and to provide mutual support.

*Section 6. Worker Rights*

*a. The Right of Association.*—Although the law provides for the right of association, worker rights advocates claimed that the laws were overly restrictive. Judges, prosecutors, and members of the police and military were not permitted to form and join unions. Approximately 5 percent of the formal sector workforce of 8.5 million belonged to organized labor unions.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or non-membership.

While the law regulates the hours for and established fundamental rights for domestic workers, the Ministry of Labor's limited ability to inspect conditions minimized the law's effect.

*b. The Right to Organize and Bargain Collectively.*—The law recognizes the right of public and private sector workers to organize and bargain collectively, but specifies that this right must be exercised in harmony with broader social objectives. A union must represent at least 20 workers to become an official collective bargaining agent. Representatives could participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition union officials claimed that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. The law restricts the number of temporary workers hired to 20 percent of a company's work force, although labor advocates claimed that some companies did not comply with this limit.

The law provides for the right to strike, and workers exercised this right in practice. The law restricts unions that represent workers in public services deemed essential by the government from striking and requires strikers to notify the Ministry of Labor in advance of their intention to carry out a job action. According to the Ministry of Labor, there was a single legal strike and 45 illegal strikes between January and August. Labor leaders alleged that it was difficult to get approval for a legal strike and believed that the Ministry of Labor was reluctant to do so for fear of hurting the economy.

There are four export processing zones (EPZs). Special regulations for the EPZs provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred.

Narcotics traffickers and Shining Path terrorists continued to hold indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (see section 5). There were also reports that illegal loggers employed forced labor in the Amazon region.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law restricts child labor based upon the age of the child, hours worked, and occupation, child labor remained a serious problem. In practice the law's provisions were violated routinely in the informal sector. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs for up to 4 hours per day, and adolescents between ages 15 to 17 may work up to 6 hours per day if they obtain special permission from the Ministry of Labor and certify that they also were attending school.

In certain sectors of the economy, higher minimum ages were in force: age 15 in industrial, commercial, or mining work and age 16 in the fishing industry. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others, work at night, or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school.

In January the Ministry of Labor created a special Office of Labor Protection for Minors (PMT). The PMT issued permits authorizing persons under age 18 to work legally under conditions deemed acceptable by law. During the year the PMT grant-

ed 898 permits for jobs in the formal sector to children between the ages of 12 and 17.

INEI estimated that 2.3 million children between 6 and 17 years of age were engaged in work, of whom 1.9 million labored in the informal sector.

Forms of child labor varied. In rural areas, many children worked on small farms with their parents, in artisanal mining, or were sent to cities to work as domestics. In urban settings, children often worked on the streets, performing, selling candy, begging or shining shoes; or as scavengers in municipal dumps. Children on the outskirts of Lima also labored in brick-making.

Employers frequently required long hours from their live-in charges, compelling them to carry out comprehensive duties, including cooking and childcare, for wages as low as \$20 to 30 (69 to 103 soles) per month.

INEI estimated in 2001 that 80 percent of children who worked continued to attend school. In 2004 the Ministry of Education took measures to make education more accessible for children compelled to work by establishing an innovative tutor program, whereby teachers would be responsible for overseeing groups of students and dedicating after-class time to those whose work made regular attendance difficult. The ministry also made night schools more available to working children.

Although there were no reliable statistics on its extent, NGOs and other observers maintained that the country suffered a serious problem with adolescent prostitution (see section 5), as demonstrated by police raids on clandestine brothels.

The Ministry of Labor is responsible for enforcing child labor laws, and its inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Firms found guilty of violating child labor laws may be fined and have their operations suspended. Inspectors made more than 4,800 visits during the year and levied fines against 182 firms for violations of health and safety issues.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry of Labor reported that there were 236 labor inspectors, an increase of approximately 30 percent compared with the previous year. Inspections focused on the formal sector. The PNP and local prosecutors exercised law enforcement authority.

In addition to labor inspectors, the Offices of the Ombudsman for Children and Adolescents (DEMUNA) receive complaints regarding violations of child labor laws. More than one thousand DEMUNAs were located in communities throughout the country. MIMDES also maintained the "street educator" program, which sent specialized teachers to the streets to provide education and support to minors involved in public begging or working as bootblacks.

In August 2004 the government established the National Committee to Prevent and Eradicate Child Labor (CPETI) composed of representatives from a variety of ministries, NGOs, labor unions, and employers organizations as well as the ILO, the Pan American Health Organization, and UNICEF. During March and April, the group held an extensive series of regional consultations on its draft 10-year plan to eliminate child labor for children under 14 and to offer greater protections for children ages 14 to 18 who must work. In September the government officially adopted the plan through publication of a supreme decree. In addition CPETI members carried out a number of campaigns to raise awareness of the problem of child labor.

In June MIMDES head Ana Maria Romero declared the remote village of Santa Filomena to be "the first mining community free from child labor." As part of a program that ran from 2000–05, Santa Filomena became the site of an experiment supported by the government, the ILO, and the NGO *Cooperacion* to establish a mechanized gold processing plant to replace children in the collection of gold scraps.

Narcotics traffickers routinely violated the rights of children in their efforts to produce illegal drugs. In August 2004 the National Commission for Development and Life Without Drugs estimated that five thousand children were employed in the illegal narcotics industry, an activity that exposed them to a variety of toxic chemicals that could have effects that range from death to damage to a person's nervous system, blisters, or burns.

*e. Acceptable Conditions of Work.*—The law states that workers should receive a "just and sufficient" wage to be determined by the government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal." The statutory minimum wage was \$134 (460 soles), which did not provide a decent standard of living for a worker and family. The government estimated the poverty line to be approximately \$65 (224 soles) a month per person, a figure that varied by region. INEI's 2003 survey showed the poverty line at \$75 (258 soles) a month per person for Lima, compared with \$55 (189 soles) for the rural jungle. According to some estimates, as much as half the workforce earned the minimum wage or below because such a great proportion worked in the largely unregu-



lated informal sector. The Ministry of Labor was responsible for enforcing the minimum wage, which was enforced in the formal sector.

The law provides for a 48-hour workweek and a weekly day of rest. The law requires companies to pay overtime to employees who work more than 8 hours and to provide additional compensation for work at night. Labor, business, and the government reported that the majority of companies in the formal sector complied with the law.

While occupational health and safety standards exist, the government lacked the resources to monitor firms or enforce compliance. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were found to be in violation of the law, the government normally punished them with fines. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

## SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy and federation, with a population of approximately 46,700. The constitution provides the smaller island of Nevis considerable self-government under a premier, as well as the right to secede from the federation in accordance with certain enumerated procedures. In the 2004 national elections, Prime Minister Denzil Douglas's Saint Kitts and Nevis Labour Party (SKNLP) won 7 seats in the 11-seat legislature, although international observers considered the electoral process flawed. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in a few areas:

- poor prison conditions
- lack of opposition access to government-controlled media
- corruption
- violence against women

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings, but police allegedly committed unwarranted killings.

In April police shot and killed Rechalieu Henry, who, according to press reports, was attempting to escape from custody. Authorities were awaiting an inquest hearing at year's end.

In August police shot and killed Garnet Tyson after police claimed he attacked them with a knife. The press reported that a witness to the shooting said that Tyson was not holding a knife, nor did he appear to be a threat to the police. An initial inquiry into the Tyson case was pending completion at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prisons were overcrowded, and resources remained limited. The prison on Saint Kitts had a capacity for 150 prisoners but held 180 prisoners at year's end, including 5 females; some prisoners slept on mats on the floor. A low-security prison on Nevis held 29 inmates. Corporal punishment is legal; a court can order that an accused person receive lashes if found guilty. The prison staff periodically received training in human rights.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

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

*Role of the Police and Security Apparatus.*—The security forces consist of a small (400-officer) police force, including a paramilitary Special Services Unit, a coast

guard, and a small defense force. Military forces patrolled jointly with the police. The military and the police report to the Ministry for National Security, Justice, and Labor.

Senior officers investigated complaints against members of the police force, and criminal offenses are referred to the director of public prosecutions. The police force continued to conduct its own internal investigation when complaints were made against its members.

*Arrest and Detention.*—Police may arrest a person based on the suspicion of criminal activity without a warrant. The law requires that persons detained be charged within 48 hours or be released. If charged, a detainee must be brought before a court within 72 hours. There is a functioning system of bail. Family members, attorneys, and clergy were permitted to visit detainees regularly.

There were no reports of political detainees.

There were 28 prisoners in pretrial detention and 29 awaiting a court hearing at year's end. Detainees may be held for a maximum of seven days awaiting a bail hearing. Those accused of serious offenses are remanded to custody to await trial, while those accused of minor infractions are released on their own recognizance.

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

The court system includes a high court and four magistrate's courts at the local level, with the right of appeal to the Eastern Caribbean Court of Appeal. Final appeal may be made to the Privy Council in the United Kingdom.

*Trial Procedures.*—The law provides for a fair, speedy, and public trial, and these requirements generally were observed. Defendants have the right to be present and to consult with counsel in a timely manner. There is a presumption of innocence, and defendants may question or confront witnesses. Free legal assistance was available for indigent defendants in capital cases only.

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

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

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

While the independent media were active and expressed a wide variety of views, the opposition People's Action Movement (PAM) party continued to allege that the ruling SKNLP blocked PAM's access to the government-controlled media. The PAM acknowledged, however, that it had access to independent media outlets.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitism. There was no organized Jewish community. For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

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

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

*Protection of Refugees.*—Although the country is a signatory of the 1951 UN Convention relating to the Status of Refugees, the government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. All citizens 18 years of age and older may register and vote by secret ballot.

*Elections and Political Participation.*—In the October 2004 general elections, Prime Minister Denzil Douglas's SKNLP was returned to office after winning 7 of 8 Saint Kitts-assigned seats in the 11-seat National Assembly. The PAM party won one seat after nearly five years without representation. Nevis Premier Vance Armory's Concerned Citizens Movement (CCM) party won two of the three assembly seats assigned to Nevis. The Commonwealth observer team categorized the electoral rules as "followed but flawed," and there were reports of vote fraud, intimidation, and foreign influence. During and after the election, government information services touted the SKNLP and criticized the opposition.

Shortly before the election, the government deported Derek Ramsamooj, a Trinidadian who served as a political consultant to the opposition party. The government charged that Ramsamooj was a threat to the country's national security and suggested that he had been responsible for opposition efforts to intimidate voters and foment instability. In June Ramsamooj returned from Trinidad only to be removed from the country again.

The governor general appoints three senators, two on recommendation of the prime minister and one on the recommendation of the leader of the opposition. The island of Nevis exercises considerable self-government, with its own premier and legislature.

A multiparty political system existed, in which political parties were free to conduct their activities; however, the PAM continued to allege that the ruling party restricted access to the media (see section 2.a.). The PAM also alleged widespread employment discrimination by the SKNLP against public sector employment of persons perceived to be PAM supporters.

There were 2 women in the parliament and no women in the cabinet; 3 of 4 magistrates were women, the court registrar was a woman, and 6 of 11 permanent secretaries were women. In addition in Nevis one cabinet member and the president of the House of Assembly were women.

*Government Corruption and Transparency.*—There were a number of allegations of corruption in the government. The opposition PAM party continued to allege corrupt electoral practices. In Nevis the Reformation Party accused the ruling CCM of corruption in the sale of land at preferential prices, among other corrupt practices, and called for an official inquiry. Businesses also complained of high-level corruption in large foreign investment projects.

While no laws provide for public access to government information, the government maintained a Web site with limited information concerning government actions.

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

While there are no governmental restrictions on human rights groups, no local human rights groups operated in the country. There were no requests for investigations or visits by international human rights groups during the year.

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

The constitution prohibits discrimination based on race, place of origin, birth out of wedlock, political opinion or affiliation, color, gender, or creed, and the government generally respected these prohibitions in practice.

*Women.*—Violence against women was a problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to \$5 thousand (EC\$13,500) and/or 6 months in prison. Although many women were reluctant to file complaints or pursue them in the courts, the Department of Gender Affairs reported 30 cases of domestic violence in 2004, the most recent data available. The department offered counseling for victims of abuse and conducted training on domestic violence and gender violence for officials in the police and fire departments, nurses, school guidance counselors, and other government employees. In addition the department's permanent secretary participated in a weekly radio program to discuss gender issues, including domestic violence.

The law prohibits rape but does not address spousal rape. Penalties for rape range from 2 years' imprisonment for incest between minors to life imprisonment for statutory rape or incest with someone under 16. Indecent assault and incest with a person 16 or older carry a penalty of 10 years' imprisonment.

Prostitution is illegal and was not considered to be a problem.

The law does not specifically address sexual harassment, and it remained a problem.

The role of women in society is not restricted by law but was circumscribed by culture and tradition. There was no overt societal discrimination against women in employment, although analyses suggested that women did not occupy as many sen-

ior positions as men did. The Department of Gender Affairs conducted programs addressing poverty and health and promoting institutional mechanisms to advance the status of women and leadership positions for women. It operated three programs for rural women, providing them with market skills and training as entrepreneurs. The department provided clients assistance with problems such as lack of housing, unemployment, child care, technical training, and personal development. It also ran the Viola Project, a program to encourage young mothers to complete their education, which had 17 participants during the year. The department produced three handbooks on sexual harassment, equal opportunity and employment, and equal pay for work of equal value. The department continued its programs focusing on men as perpetrators of crimes of violence against women.

*Children.*—The government was committed to children's rights and welfare. Education is compulsory, free, and universal, up to the age of 16. More than 98 percent of children completed secondary school.

Free medical care was provided for children, and boys and girls had equal access.

The law sets the age of consent at 16. Authorities brought charges in 22 cases involving alleged sexual activity with minors (statutory rape) and 5 cases of incest (which includes sexual activity with any member of the household) in 2004, the most recent data available.

*Trafficking in Persons.*—While no laws address trafficking in persons specifically, there were no reports that persons were trafficked to, from, or within the country.

The country continued an economic citizenship program, whereby foreign investors were permitted to purchase passports through loosely monitored procedures requiring an investment of at least \$250 thousand (EC\$675 thousand) in real estate and an additional registration fee of \$35 thousand (EC\$94,500) for the head of household (amounts varied for other family members). This process reportedly facilitated the illegal immigration of persons from China and other countries to North America, where, in some instances, criminal organizations that provided the funds to such persons forced them to work under conditions similar to bonded labor until the debt was repaid. The government denied any knowledge of illegal immigration facilitated through this program and asserted that applicants were screened adequately.

*Persons with Disabilities.*—While the law prohibits discrimination, it does not specifically cite discrimination against persons with disabilities. There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers exercised their legal right to form and join trade unions. Employers were not bound legally to recognize a union, but in practice employers did so if a majority of workers polled wished to organize. Approximately 10 percent of the workforce was unionized. The law permits the police, civil service, and other organizations to organize associations that serve as unions. The major labor union, the Saint Kitts Trades and Labour Union (SKTLU), was associated closely with the SKNLP and was active in all sectors of the economy. The opposition PAM party alleged that the ruling party used its influence to stifle other unions that would threaten the SKTLU in the workplace.

The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. However, the employer must pay lost wages and severance pay to employees who had worked at least one year, based upon their length of service.

*b. The Right to Organize and Bargain Collectively.*—Labor unions have the legal right to organize and to negotiate for better wages and benefits for union members, and the government protected these rights in practice. A union that obtains membership of more than 50 percent of employees at a company can apply to be recognized by the employer for collective bargaining. There are no export processing zones.

The right to strike, while not specified by law, is well established and respected in practice. Restrictions on strikes by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom, but not by law.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

Prisoners were required to work if their sentence was more than 30 days and stipulated "hard labor." They received a small stipend for this work, paid upon discharge.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits slavery, servitude, and forced labor of children, and the Department of Labor effectively enforced this law in practice. There were no reported complaints of child labor during the year. The minimum legal working age is 16 years. The Department of Labor relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they generally did effectively.

Juveniles worked in agriculture, domestic service, and illicit activities. In rural areas where families engaged in livestock farming and vegetable production, children often were required to assist as part of family efforts at subsistence. Girls often engaged in domestic service. Such labor included family-oriented work where children were made to look after younger siblings or ailing parents and grandparents at the expense of their schooling. Children often worked in other households as domestic servants or babysitters. Society does not consider domestic work exploitative child labor.

*e. Acceptable Conditions of Work.*—Minimum wage rates for various categories of workers, such as domestic servants, retail employees, casino workers, and skilled workers, were last updated in 1994, and manufacturing sector wages were revised in 1996. The minimum wage for full-time domestic workers was \$56 (EC\$150) per week and \$74 (EC\$200) per week for skilled workers. However, average wages were considerably higher in these and all other categories, and there was no need to enforce the outdated legal minimum wages, which would not provide a decent standard of living for a worker and family. Many workers supplemented wages by keeping small animals such as goats and chickens, or other activities. The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages.

The law provides for a 40- to 44-hour workweek, but the common practice was 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. The law provides for premium pay for work above the standard workweek. There was no legal prohibition of excessive or compulsory overtime, although local custom dictated that a worker could not be forced to work overtime.

While there were no specific health and safety regulations, the law provides general health and safety guidance to Department of Labor inspectors. The Labor Commission settles disputes over safety conditions. Workers have the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims, and workers may leave such locations without jeopardy to their continued employment.

## SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy with a population of approximately 163 thousand. In generally free and fair elections in 2001, Prime Minister Kenny Anthony's Saint Lucia Labour Party (SLP) retained power, winning 14 seats in the 17-member House of Assembly. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in a few areas:

- physical abuse of suspects and prisoners by the police
- long delays in trials and sentencing
- violence against women
- child abuse

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government or its agents did not commit any politically motivated killings, security forces killed four persons during the year.

In February police shot and killed Remy Jeremie after he reportedly shot at police officers who attempted to apprehend him and several accomplices engaged in an attempted robbery. Hudson James was shot and killed by police in April. In June police killed a mentally challenged person, Stephen Sylvester, who allegedly threat-

ened to attack a police officer. Lewis Pelage was shot and killed by police in September. All four cases were under investigation at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them. However, prisoners and suspects regularly complained of physical abuse by police and prison officers. There were 146 complaints against the police, the majority of which were for the use of excessive force (see section 1.d.).

In April police arrested Natasha Joseph and charged her with killing her brother. Joseph told the press that, during several days in custody, police officers denied her right to counsel and allegedly used threats and intimidation in an attempt to obtain a confession. In July a plainclothes police officer reportedly shot Brian Felix during an argument and left him injured without arresting him or seeking medical attention. A bystander took Felix to a hospital, where police then detained him. In October a police officer allegedly beat Mathurine Williams for making a negative comment to him, requiring subsequent hospital treatment for a broken finger and other physical injuries.

*Prison and Detention Center Conditions.*—Prison conditions generally met minimum international standards at the 2-year-old Bordelais Correctional Facility, which had a capacity of 500 prisoners and held approximately that number of prisoners. There were complaints regarding the treatment of prisoners at the facility.

In September the press reported that an attorney complained to the judge during a sentencing proceeding that guards had beaten clients of his who were prisoners at Bordelais prison. Also in September the press reported allegations that guards severely beat prisoner Wilson Exhale, who was left in his cell unconscious and denied medical treatment for several days. The attorney who heads the National Center for Legal Aid and Human Rights charged that 10 prison guards had beaten Exhale and called for the government to investigate a "culture of torture and inhumane treatment of inmates." The government denied that such a situation existed and stated that the incident involved only a single guard and Exhale, who had a history of violence and had once beaten a prison guard unconscious. The case was under investigation at year's end.

The Boy's Training Center, a juvenile detention center that operated separately from the prison, held 14 juveniles between 12 and 18 years of age. A fire broke out at the facility in November, killing 12-year-old Jamal Roberts. The incident was under investigation at year's end. Following the fire, the press reported on allegations of poor conditions and harsh treatment of the juveniles at the facility, including beatings by police officers.

The government permitted prison visits by independent human rights observers, although no such visits were known to have taken place during the year.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest or imprisonment, and the government generally adhered to these provisions in practice.

*Role of the Police and Security Apparatus.*—The Royal Saint Lucia Police numbered 704 officers, which included a 35-officer Special Services Unit with some paramilitary training and a coast guard unit. The police force reports to the Ministry of Home Affairs and Internal Security. The police commissioner continued implementation of a community policing initiative to increase professionalism, prevent crime, and address customer service issues. The police force's internal complaints unit received and investigated complaints made by the public against police officers. The complaint unit's findings were sent to the Police Complaints Commission, a civilian body, which reviewed the cases and made recommendations for internal disciplinary action to the police commissioner.

During the year the police force's complaints unit received 146 complaints against police officers, 89 of which were investigated. Sufficient evidence was found to sustain 24 complaints, which were sent to the Police Complaints Commission with recommendations that disciplinary action be taken against the police officers cited.

*Arrest and Detention.*—The law stipulates that persons must be apprehended openly with warrants issued by a judicial authority and requires a court hearing within 72 hours of detention. Detainees are allowed prompt access to counsel and family. There is a functioning bail system.

There were no reports of political detainees.

Prolonged pretrial detention continued to be a problem; 33 percent of the nearly 500 prisoners at Bordelais Correctional Facility were on remand awaiting trial. Those charged with serious crimes spent an estimated six months to four years in pretrial detention. In September the press reported that an attorney complained to

a judge about four individuals charged in a murder case who had each been held on remand for three years and seven months.

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

The court system continued to face a serious backlog of cases. The average time for a trial was 3 to 6 months in the magistrate's courts and 6 to 12 months for nonpetty criminal cases, although persons charged with serious crimes were held in detention for up to 4 years. To address this backlog, the courts began hearing serious criminal cases throughout the year, instead of three times per year.

The two-level court system includes the courts of summary jurisdiction (magistrate's courts) and the High Court, both of which have civil and criminal authority. The lower courts accept civil claims up to approximately \$1,850 (EC\$5 thousand) and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases may be appealed to the Eastern Caribbean Court of Appeal. Cases also may be appealed to the Privy Council in London as the final court of appeal. A family court handles child custody, maintenance, support, domestic violence, juvenile affairs, and related matters.

*Trial Procedures.*—The law provides for public trials before an independent and impartial court and, in cases involving capital punishment, provision of legal counsel for those who cannot afford a defense attorney. While there was no requirement for a speedy trial, the government used the magistrate's court located in the prison to reduce processing time for court hearings after detention. In criminal cases not involving capital punishment, defendants must obtain their own legal counsel. Defendants are entitled to select their own representation, are presumed innocent until proven guilty in court, and have the right of appeal. Defendants have the right to confront or question witnesses. Authorities observed both constitutional and statutory requirements for fair public trials.

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

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

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

The independent media were active and expressed a wide variety of views without restriction. Local media outlets and the opposition party continued to voice concerns over the "spreading false news" clause, enacted in 2003 as part of the new Criminal Code.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Two Rastafarians, convicted of murder and arson and sentenced to hang in 2003 for attacking parishioners at a Catholic Mass in 2000, remained on death row.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitism. There was no organized Jewish community.

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

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

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—No formal government policy toward refugee or asylum requests existed. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

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

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

*Elections and Political Participation.*—In 2001 in elections that generally were considered free and fair, Prime Minister Anthony's SLP defeated the United Workers Party, led by Morella Joseph. The SLP won 14 of 17 seats and 55 percent of the popular vote. The governor general appoints the 11-member Senate, which included 2 independents.

Eight women competed in the elections in a field of 45 candidates for 17 positions. Voters elected two women to the House of Assembly, and there were four appointed female senators. One of the 14 members of the cabinet was a woman, as was the governor general.

*Government Corruption and Transparency.*—The public perception of corruption in government was reportedly low, although there was a perception that obtaining public sector jobs was tied to political ties and cronyism.

The law provides for public access to information, and parliamentary debates are open to the public. The Government Information Service disseminated public information on a daily basis, operated an extensive website, and published a number of official periodicals.

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

A few domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the government officially cooperated with such investigations, observers noted occasional reluctance by lower level officials to cooperate.

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

While neither the constitution nor the law addresses discrimination specifically, government policy was nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement.

*Women.*—Violence against women was recognized as a serious problem. The government prosecuted crimes of violence against women only when the victim pressed charges. The family court heard cases of domestic violence and crimes against women and children. The Ministry of Health, Human Services, Family Affairs, and Gender Relations reported 34 cases of domestic violence in 2004; more recent figures were not available. Most of the cases were referred to a counselor, and the police facilitated the issuance of court protection orders in some. Rape, including spousal rape, is a crime punishable by 14 years' to life imprisonment. Police and courts enforced laws to protect women against abuse, although police were hesitant to intervene in domestic disputes, and many victims were reluctant to report cases of domestic violence and rape or to press charges.

The police force conducted some training for police officers responsible for investigating rape and other crimes against women. A special police unit handled domestic violence, and its officers, who include women, worked closely with the Ministry of Home Affairs and the Office of Gender Relations.

The law allows a judge to issue a protection order prohibiting an abuser from entering or remaining in the place where the victim is living. It also allows the judge to order that an abuser's name be removed from housing leases or rental agreements, revoking the right of the abuser to live in the same residence as the victim.

The Saint Lucia Crisis Center Committee, a nongovernmental organization located in Castries, in 2004 monitored nine cases of physical violence and also helped clients to deal with such problems as incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. During the year the Women's Support Center, a government shelter for abused persons, received crisis calls and offered residential services to clients and their dependent children. The center also engaged in an active community outreach program that included visits to schools, health centers, and community centers.

Prostitution is illegal, but it was a growing problem. The police did not take serious action against certain nightclubs despite some reports of trafficking.

Sexual harassment is prohibited under the Criminal Code that came into effect in January; however, it remained a problem.

Women generally enjoy equal rights, including in economic, family, property, and judicial matters. Women's affairs were under the jurisdiction of the Ministry of Health, Human Services, Family Affairs, and Gender Relations. The ministry was responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

*Children.*—The government gave high priority to improving educational opportunities and health care for children.

Education was compulsory from age 5 through 15; registration fees were required. Approximately one-third of primary school children continued on to secondary



schools, and the dropout rate from primary to secondary school was higher for boys than for girls.

Government clinics provided prenatal care, immunization, child health care, and health education services. Boys and girls had equal access to medical care.

During the year the Ministry of Health, Human Services, Family Affairs, and Gender Relations reported 75 cases of child sexual abuse, 95 cases of physical abuse, 29 cases of psychological abuse, and 107 cases of neglect and abandonment. The media criticized the ministry's Division of Human Services for failing to respond sufficiently to reports of sexual abuse of children, including alleged cases of incest. As there was no welfare system, parents of sexually abused children sometimes declined to press sexual assault charges against the abuser in exchange for financial contributions toward the welfare of children born of such abuse.

In May a judge sentenced Dunedin Alexander to 15 years' imprisonment for sexually abusing an 11-year-old girl and Garvin Palm to 10 years' imprisonment for attempted sexual abuse of a 12-year-old girl. The press reported that during the proceedings, the judge remarked about the increasing number of criminal cases involving adults allegedly having sex with children, which he said constituted 14 of the 30 cases then before the court. Of 32 court cases heard on a single day, 13 were for sexually related offenses including rape, sexual assault on a minor, and incest. The press also reported an increase of cases of sexual assault on minors, with 65 cases in 2004 compared with 49 in 2003.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that persons were trafficked to, from, or within the country. There are laws prohibiting slavery, forced labor, forced imprisonment, or kidnapping that could be used to prosecute alleged traffickers.

In June the International Organization for Migration (IOM) released an exploratory assessment that identified the country as one of several in the region in which trafficking occurred. The findings of the report suggested that persons, including children, were trafficked to and within the country to work in prostitution. The IOM report cited anecdotal evidence of women from other Caribbean countries who had been promised jobs as waitresses, only to find themselves coerced into working as prostitutes.

The government acknowledged that despite a lack of documented cases of trafficking, surveys and media reports indicated that it occurred. The country had a growing sex tourism industry with a number of strip clubs and brothels, many of which were staffed by women from the Dominican Republic and other Caribbean islands.

In October the government's Office of Gender Relations held two workshops addressing the role of both the public and private sectors in curbing trafficking. The government also began training health care professionals and police officers how to identify situations in which trafficking may have occurred.

*Persons with Disabilities.*—No specific legislation protects the rights of persons with disabilities or mandates provision of access to buildings or government services for them. The government is obliged to provide disabled access to all public buildings, and several government buildings had ramps to provide access. There was no rehabilitation facility for persons with physical disabilities, although the health ministry operated a community-based rehabilitation program in residents' homes. There were schools for the deaf and for the blind until the secondary level. There also was a school for persons with mental disabilities.

*Other Societal Abuses and Discrimination.*—There was widespread stigma and discrimination against persons infected with HIV/AIDS, although the government implemented several programs to address this issue, including a 5-year program to combat HIV/AIDS. The UN Population Fund also provided support for youth-oriented HIV/AIDS prevention programs.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Most public sector employees and approximately 36 percent of the total work force was unionized.

*b. The Right to Organize and Bargain Collectively.*—Unions have the legal right to engage in collective bargaining, and they exercised this right in practice. The law regulates internal union governance and also provides that an employer must recognize a union if the union obtains the support of 50 percent plus one of the employees at a particular business.

Strikes in both the public and private sectors were legal, but there were many avenues such as collective bargaining agreements and government procedures that

often precluded a strike. The law prohibits members of the police and fire departments from striking on the grounds that these professions were “essential services.” Workers in other “essential services”—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days’ notice before striking.

Labor law is applicable in the export processing zones, and there were no administrative or legal impediments to union organizing or collective bargaining in those zones; however, there were no unions registered in these zones.

*c. Prohibition of Forced or Compulsory Labor.*—The government prohibits forced or compulsory labor, and there were no reports that such practices occurred. While there is no specific prohibition of forced or compulsory labor by children, there were no reports of such practices.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for a minimum legal working age of 16 years. The minimum legal working age for industrial work is 18 years. Child labor existed to some degree in the rural areas, primarily where larger, stronger, school-age children helped harvest bananas from family trees. Children also typically worked in urban food stalls or sold confectionery on sidewalks. However, these activities occurred on nonschool days and during festivals. The Department of Labor of the Ministry of Labor Relations, Public Service, and Cooperatives was responsible for enforcing statutes regulating child labor. Employer penalties for violating the child labor laws were \$3.55 (EC\$9.60) for a first offense and \$8.88 (EC\$24) for a second offense. There were no formal reports of violations of child labor laws.

*e. Acceptable Conditions of Work.*—Minimum wage regulations in effect since 1985 set wages for a limited number of occupations. The minimum monthly wage for office clerks was \$111 (EC\$300), for shop assistants \$74 (EC\$200), and for messengers \$59 (EC\$160). The minimum wage did not provide a decent standard of living for a worker and family, but most categories of workers received much higher wages based on prevailing market conditions. The 1999 Minimum Wage Act established a commission responsible for setting a minimum wage level; it met during 2003, but it had not finished its work by year’s end.

There is no legislated workweek, although the common practice was to work 40 hours in 5 days. Special legislation covers work hours for shop assistants, agricultural workers, domestics, and persons in industrial establishments.

While occupational health and safety regulations were relatively well developed, there was only one qualified inspector for the entire country. The ministry enforced the act through threat of closure of the business if it discovered violations and the violator did not correct them. However, actual closures rarely occurred because of lack of staff and resources. Workers had the legal right to leave a dangerous workplace situation without jeopardy to continued employment.

## SAINT VINCENT AND THE GRENADINES

St. Vincent and the Grenadines is a multiparty, parliamentary democracy with a population of approximately 117 thousand. Prime Minister Ralph Gonsalves’ Unity Labor Party (ULP) was returned to office in December elections that international election observers assessed as generally free and fair. The opposition questioned the results in several constituencies and said it intends to formally challenge them in court. The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were problems in a few areas:

- impunity for police who used excessive force
- poor prison conditions
- an overburdened court system
- violence against women
- abuse of children

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, the government was investigating the deaths of Selwyn Moses, who police shot and killed in February, and Joel Williams, who was shot and killed in December.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, a local human rights group noted that a high percentage of convictions were based on confessions. The nongovernmental organization (NGO) St. Vincent and the Grenadines Human Rights Association (SVGHRA) believed that most confessions resulted from unwarranted police practices, including the use of physical force during detention, illegal search and seizure, and failure to inform properly those arrested of their rights. The SVGHRA complained that the government failed to investigate adequately allegations of abuse or punish those police officers responsible for such abuses.

During the year citizens filed 36 complaints charging use of excessive force by members of the police force. Police officers investigated all such complaints and submitted their findings to the police commissioner. The status of these complaint cases was unavailable at the end of the year. If the decision of the police commissioner did not satisfy complainants, they may appeal to the Police Oversight Committee (see section 1.d.).

In April police reportedly beat Leon Burgin while he was in custody at the central police station. At year's end the incident was under investigation.

In July police reportedly beat Moises Flores, a Venezuelan citizen. Flores, who suffered several broken bones while in police custody, was charged with resisting arrest and wounding a police officer, to which he pled not guilty. The charges were dropped, and he left the country without pursuing a complaint against the police.

*Prison and Detention Center Conditions.*—Prison conditions remained poor. Prison buildings were antiquated and overcrowded, with Her Majesty's Prison in Kingstown holding 355 inmates in a building designed for 75. These conditions resulted in serious health and safety problems.

A prison guard training program, initiated in 2003, instructed guards in methods used in the British prison system. Despite such reforms, problems such as endemic violence, understaffing, underpaid guards, uncontrolled weapons and drugs, an increase in HIV/AIDS, and unhygienic conditions persisted. During the year the government began an educational program that allowed prisoners to take classes in English, mathematics, computers, and job skill development.

The SVGHRA reported that prison guards routinely beat prisoners to extract information regarding escapes, violence, and crime committed in the prison.

The Fort Charlotte prison held nine female inmates in a separate section. Pretrial detainees and young offenders (16 to 21 years of age) were held with convicted prisoners. Conditions were inadequate for juvenile offenders.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, complaints continued regarding police practices in bringing cases to court.

*Role of the Police and Security Apparatus.*—The Royal St. Vincent Police, the only security force in the country, includes a coast guard, a small Special Services Unit with some paramilitary training, and the fire service. There were 730 members of the police force, all of whom were law enforcement officers who could be rotated between the various parts of the force. The police report to the minister of national security, a portfolio held by the prime minister. The government operated an oversight committee to monitor police activity and hear public complaints about police misconduct. The committee reported to the minister of national security and to the minister of legal affairs and actively participated in investigations during the year.

*Arrest and Detention.*—The law requires arrest warrants in most instances, which are issued by judicial authority. Police apprehended persons openly, and detainees may seek judicial determinations after 48 hours if not already provided. The bail system functions and was generally effective. A local human rights group reported that most detainees were given prompt access to counsel and family members, although in some instances, access delays occurred.

Although there were only three official magistrates, the registrar of the High Court and the presiding judge of the family court effectively served as magistrates when called upon to do so. Defense attorneys claimed that 6- to 12-month delays occurred in preliminary inquiries for serious crimes.

There were no reports of political detainees.

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

The judiciary consists of lower courts and the High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the

United Kingdom. There were three official magistrates, including the chief magistrate, a senior magistrate, and one other magistrate. In addition the registrar of the High Court has the authority to sit as a magistrate if called upon. The chief magistrate also served as president of the family court, which handled criminal cases for minors up to age 16.

*Trial Procedures.*—The law provides for fair, public trials, and an independent judiciary generally enforced this right. The court appoints attorneys only for indigent defendants charged with a capital offense. Defendants are presumed innocent until proven guilty, may confront and question witnesses, and may appeal verdicts and penalties. A backlog of pending cases continued, because the magistrate's court in Kingstown lacked a full complement of magistrates. A local human rights group reported that magistrates were overworked and underpaid.

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

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

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. There were three major newspapers and numerous smaller publications; all were privately owned. The sole television station and six of seven radio stations were privately owned.

During the year the government prosecuted and convicted a leading radio talk show host and opposition figure, Eduardo Lynch, for making false statements likely to cause public alarm. Lynch appealed the conviction to the Eastern Caribbean Court of Appeal, which had not rendered a decision by year's end. The statements were made during a March 4 meeting of the opposition New Democratic Party (NDP), where Lynch said that the government had a vehicle containing equipment capable of jamming radio signals and monitoring phone calls. The opposition charged that the government's prosecution of Lynch was politically motivated. The Association of Caribbean Media Workers, an independent NGO, expressed its concern over the prosecution.

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

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Members of the Rastafarian community continued to complain that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination by the authorities on the basis of religious belief or simply enforcement of laws against marijuana, which was used as part of Rastafarian religious practice.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There is no organized Jewish community.

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

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

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—Although the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, but did not grant refugee status or asylum. While the country does not receive refugees, in 2004 the government permitted victims of Hurricane Ivan from Grenada to stay in the country on a temporary basis. A Red Cross representative served as the honorary liaison with the office of the UN High Commissioner for Refugees.

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

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

*Elections and Political Participation.*—The ruling ULP was returned to office in December elections that international observers declared to be generally free and fair. The opposition NDP, however, claimed there were electoral irregularities that could have affected the outcome in three constituencies. The opposition said it intends to formally challenge the results in court. The nonpartisan SVGHRA also reported irregularities and questioned the ability of international observers to declare the election free and fair, citing the limited period of time that observer missions from both the Caribbean Community and the Organization of American States were in the country. The NGO specifically criticized the observers for failing to remain until all votes were counted. The elections produced no change in the makeup of the 15-seat parliament, with the ULP maintaining its 12 to 3 majority over the NDP.

There were two women in parliament and three women in the cabinet—the minister of education, the minister of urban development and labor, and the attorney general.

*Government Corruption and Transparency.*—Although the country had a national anticorruption plan, corruption remained a moderate problem. There was anecdotal evidence of corruption in government contracting and various other allegations. The opposition publicly raised charges of corruption in the awarding of a large contract for road improvements to a company owned by a government minister's brother; that minister oversaw transportation and public works.

The law provides for public access to information, and the government provided such access in practice.

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

There were no restrictions on international human rights groups, but none were known to have expressed interest or concern in the country during the year. A domestic human rights group, the SVGHRA, generally operated without government restriction, investigating and publishing its findings on human rights cases. Government officials generally were responsive, but the SVGHRA reported that its complaints regarding allegations of police brutality typically received perfunctory responses from the government. The SVGHRA continued to monitor government and police activities, particularly with respect to treatment of prisoners, publicizing any cases of abuse. The SVGHRA participated in training seminars.

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

The law provides for equal treatment regardless of race or gender, and the government generally enforced this provision in practice.

*Women.*—Violence against women remained a serious problem. In January both the minister for social development and the attorney general highlighted the problem of violence against women during a ceremony to promote awareness of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, which the government has ratified. The Domestic Violence/Matrimonial Proceedings Act prohibits domestic violence, and 443 cases were filed in the family court. The SVGHRA reported that, in many instances, domestic violence went unpunished due to a culture in which victims learn not to seek assistance from the police or the prosecution of offenders.

The SVGHRA conducted numerous seminars and workshops throughout the country to familiarize women with their rights. Development banks provided funding through the Caribbean Association for Family Research and Action for a program on domestic violence prevention, training, and intervention. Police received training on domestic abuse, emphasizing the need to file reports and, if there was sufficient evidence, to initiate court proceedings. To counter the social pressure on victims to drop charges, some courts imposed fines against persons who brought charges but did not testify.

Rape, including spousal rape, is illegal, and the government effectively enforced the law. Depending on the magnitude of the offense and the age of the victim, the sentence for rape generally was 10 years to life in prison. During the year the police received 78 reports of rape; 31 of these were prosecuted and 47 were still under investigation at the end of the year.

Although prostitution is illegal, the local human rights group reported that it remained a problem among young women and teenagers.

The law does not specifically prohibit sexual harassment, although it could be prosecuted under other laws. The local human rights group believed these laws were ineffective and needed amendment to address this problem. In January the minister for social development said that reports of sexual harassment in the workplace had risen.

Women enjoyed the same legal rights as men. Women received an equitable share of property following separation or divorce. The Office of Gender Affairs, under the Ministry of Education, Women's Affairs, and Culture, assisted the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work.

The government provided limited services for female victims of abuse and relied on NGOs to fill this role. Marion House, an independent social services agency, provided counseling and therapy services, as well as parenting and support programs for young adults aged 15 to 25.

*Children.*—The government was committed to children's rights and welfare. Primary education was compulsory, free, and universal, and the Ministry of Education estimated that 99 percent of primary school-age children attended school. In September the government made secondary education universal; prior to that the ministry estimated that approximately 83 percent of secondary school-age children attended school during the year. The government investigated cases in which children were withdrawn from school before the age of 16. As a supplement to secondary school, the government sponsored the Youth Empowerment Program, which was an apprenticeship program for young adults interested in learning a trade. Approximately 500 youths were enrolled in this program, earning a stipend of approximately \$148 (EC\$400) a month; private sector employers contributed additional amounts in some instances.

Boys and girls enjoyed equal access to health care.

Child abuse remained a problem. The law provides a limited legal framework for the protection of children, and the Family Services Department, Ministry of Social Development, monitored and protected the welfare of children. The Family Services Department referred all reports of child abuse to the police for action. During the year 63 cases of child abuse were sent to the family court.

*Trafficking in Persons.*—The law does not address trafficking in persons specifically, but there were no reports that persons were trafficked to, from, or within the country.

*Persons with Disabilities.*—There was no discrimination against persons with physical and mental disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities, and the circumstances for such persons generally were difficult. Most persons with severe disabilities rarely left their homes because of the poor road system and lack of affordable wheelchairs. The government partially supported a school for persons with disabilities, which had two branches. A separate, small rehabilitation center treated approximately five persons daily. The Ministry of Social Development is responsible for assisting persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers exercised the legal right to form and join unions; however, no law requires employers to recognize unions. Less than 10 percent of the work force was unionized.

The Protection of Employment Act provides for compensation and worker rights, but these were restricted to protection from summary dismissal without compensation and reinstatement or severance pay if unfairly dismissed. This act protects workers from dismissal for engaging in union activities and provides them with reinstatement rights if illegally dismissed.

*b. The Right to Organize and Bargain Collectively.*—Although the law permits unions to organize and bargain collectively, and the government protected these rights in practice, no law requires employers to recognize a particular union as an exclusive bargaining agent. The Trade Dispute, Arbitration, and Inquiry Act provides that if both parties to a dispute consent to arbitration, the minister of labor can appoint an arbitration committee from the private sector to hear the matter. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice; however, the Essential Services Act prohibits persons providing such services (defined as electricity, water, hospital, and police) from striking.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum working age at 16, and workers may receive a national insurance card at that age. The Ministry of Labor monitored and enforced this provision, and employers generally respected it in practice. There were three general inspectors in the labor inspectorate with responsibility for monitoring all labor issues and complaints. The ministry reported no child labor problems. The age of leaving school at the primary level was 15 years; when these pupils left school, they usually were absorbed into the labor market as apprentices. The only recognized child labor was children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The government operated a youth employment service, which provided training and increased job opportunities by employing young people in government ministries for up to one year.

*e. Acceptable Conditions of Work.*—The Wages Council meets every two years to review minimum wages. Last set in 2003, minimum wages varied by sector and type of work. They are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture, the minimum wage for workers provided shelter was \$9.26 (EC\$25) per day; industrial workers earned \$11.11 (EC\$30) per day. In many sectors, the minimum wage did not provide a decent standard of living for a worker and family, but most workers earned more than the minimum.

The law prescribes hours of work according to category, such as industrial employees (40 hours per week), professionals (44 hours per week), and agricultural workers (30 to 40 hours per week). The law provides that workers receive time-and-a-half for hours worked over the standard workweek. There was a prohibition against excessive or compulsory overtime, which was effectively enforced in practice.

Legislation concerning occupational safety and health was outdated, and enforcement of regulations was ineffective. Trade unions addressed some violations regarding safety gear, long overtime hours, and the safety of machinery. The law does not address specifically whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, but it stipulates conditions under which factories must be maintained. Failure to comply with these regulations would constitute a breach, which might cover a worker who refused to work under these conditions.

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## SURINAME

Suriname is a constitutional democracy, with a president usually elected by a unicameral legislature. The population is approximately 493 thousand. After generally free and fair elections in May, the New Front Plus government, a coalition of nine parties, was formed. On August 3, the United People's Assembly reelected Ronald Venetiaan as president. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas:

- police mistreatment of detainees at the time of arrest
- abuse of prisoners by guards
- overcrowded detention facilities
- an overwhelmed judiciary with a large case backlog
- lengthy pretrial detention
- self-censorship by some media
- increased corruption in the executive branch
- societal discrimination against women, minorities, and indigenous people
- violence against women
- trafficking in women, girls, and boys
- child labor in the informal sector

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government or its agents did not commit any politically motivated killings, security forces killed two individuals during the year.

In April a police officer shot and killed an armed suspect who tried to escape arrest. An investigation vindicated the officer. In October a police officer shot and wounded an unarmed detainee who tried to escape from the police station; results of the investigation were pending at year's end.

No information was available as to whether any action was taken against the two officers who shot and killed a defenseless suspect in May 2004.

In June the Inter-American Court of Human Rights found the government guilty of human rights violations in the case of the 1986 massacre of at least 39 civilians at the N'Djuka Maroon village of Moiwana and the intentional destruction of their property by a unit of the National Army. The court ordered the government to pay \$13 thousand in reparations to each survivor, investigate the crimes, and conduct a public ceremony whereby the state recognizes its responsibility and apologizes to the N'Djuka people. On November 28, the Minister of Justice and Police stated that the government accepted the verdict and would implement it within the prescribed time limit. On November 30, a first large-scale commemoration ceremony took place in Moiwana, drawing over 300 attendees. In December the government formed a commission to see that the court's orders were properly executed. The attorney general also established a coordination team to investigate the Moiwana massacre and other crimes committed by the security forces that remain unpunished.

In mid-2004 the prosecutor's office completed its investigation into the 1982 killings by the Desi Bouterse regime of 15 prominent political, labor, business, and media leaders, ordered in 2000 by the Court of Justice. More than 20 suspects, including prime suspect—former military dictator (and current National Assembly member)—Desi Bouterse, were scheduled to be tried. At year's end the trial was pending a military court ruling on pretrial objections raised by defendants.

*b. Disappearance.*—Although there were no reports of politically motivated disappearances, the government had yet to investigate allegations of certain disappearances that occurred between 1983 and 1991.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the law prohibits such practices, human rights groups continued to express concern about official mistreatment and documented cases of police mistreatment of detainees, particularly during arrests, and abuse of prisoners by prison officials.

Human rights activists accused the police of using excessive force during arrests. There were reports that police shot and injured five suspects, including armed dangerous criminals, during arrests. In January police officers severely beat two suspects, one of whom required medical treatment. Results of an investigation by the Police Personnel Investigation Department (OPZ) were not available at year's end.

In August police officers beat an unarmed homeless man charged with theft during arrest.

In December a father and his 13-year-old daughter filed a complaint against the police for physical abuse on November 25 when the father, with his daughter in the car, entered and refused to leave the motorcade escorting the visiting Dutch prime minister to the airport. The father claimed that he suffered a lost tooth, a cut over his left eye, and a shoulder injury, and that his daughter was slapped by the police officer during the confrontation. The matter was under investigation at year's end.

Through November citizens filed 279 complaints with the OPZ, the majority of which were for physical mistreatment and neglect of duty (see section 1.d.). In January the minister of justice and police established a new Reporting Unit for Police Conduct, but the unit does not publicly disclose the number of inquiries received. The authorities arrested 53 officers and disciplined 151 for various offenses, including brutality; 7 officers were incarcerated, 21 were suspended, and 21 were fired. According to human rights groups, inadequate training of police officers serving as the jailers at local detention facilities contributed to the abuses.

*Prison and Detention Center Conditions.*—Prison conditions were poor. Most facilities, particularly older jails, remained unsanitary and seriously overcrowded, with as many as four times the number of detainees for which they were designed.

Violence among prisoners was common, but unlike previous years there were no complaints of mistreatment by guards.

Human rights monitors expressed concern about conditions in pretrial detention facilities, which remained overcrowded. A steadily growing number of people who had been convicted, but not yet placed in prisons due to a lack of space in prison



facilities, continued to be held in these detention cells. Because of staff shortages, police officers rarely permitted detainees to leave their cells. Detainees and human rights groups also complained about inadequate meals.

Conditions in women's jail and prison facilities were generally better than those in the men's facilities. Once sentenced, there was no separate facility for girls under the age of 18; girls were held in the women's detention center and in the women's section of one of the prison complexes.

Juvenile facilities for both boys and girls between the ages of 10 and 18 within the adult prison were considered adequate and included educational and recreational facilities. A separate wing of an adult prison held boys under age 18 who committed serious crimes. Conditions in the separate youth detention center remained inadequate, and prisoners and nongovernmental organizations (NGOs) complained about overcrowding and poor ventilation, physical and verbal abuse by the guards, and unchecked violence among detainees.

The government permitted visits by independent human rights observers. Representatives of the NGO *Moiwana '86* group reported that, in general they had access to prisoners and received cooperation from prison officials on routine matters.

*d. Arbitrary Arrest or Detention.*—While the law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions, prisoners who appealed their cases often served their full sentences due to the lengthy appeals process resulting from a shortage of judges.

The attorney general's office reiterated its concern that prisoners who served their original sentence were not released on a timely basis. Defense lawyers often utilized an article of the Code of Criminal Proceedings that allows a judge to release a suspect if the case against the accused appears weak.

*Role of the Police and Security Apparatus.*—The armed forces are responsible for national security and border control, with the military police having direct responsibility for immigration control at the country's ports of entry. All elements of the military are under the control of the minister of defense. Civilian police bear primary responsibility for the maintenance of law and order and reported to the Ministry of Justice and Police. Police effectiveness was hampered by a lack of equipment and training, low salaries, and poor coordination with other law enforcement agencies. While joint police and military operations were limited in the past, the ministers of justice and police and defense formalized their cooperation in October. Corruption remained a problem, and senior officers met monthly with the attorney general's office to review corruption and other cases against the police. Through November the OPZ had investigated 279 complaints against officers and made recommendations whether an officer should be punished internally or if criminal charges should be brought.

In December authorities dishonorably discharged and jailed two police officers who stole four machine guns from a police weapons depot; an investigation remained under way at year's end.

*Arrest and Detention.*—Individuals were apprehended with warrants and were promptly informed about the charges against them. The police may detain a person suspected of committing a crime for investigation up to 14 days if the sentence for that crime is longer than 4 years, and an assistant district attorney or a police inspector may authorize incommunicado detention. The police must bring the accused before a prosecutor to be charged formally in that period, but if additional time is needed to investigate the charge, a prosecutor and later a judge of instruction may extend the detention period an additional 150 days. There is no bail system. Detainees were allowed prompt access to counsel of their choosing, but the prosecutor may prohibit access if he thinks that this could harm the investigation. Detainees were allowed weekly visits from family members.

There were no reports of political detainees.

The average length of pretrial detention was 30 to 45 days for lesser crimes. Detainees often were held in overcrowded detention cells at local police stations. The number of persons in pretrial detention was estimated at 880, or 55 percent of the total prison population; 650 of them were held in the 7 detention cells in Paramaribo and the remainder in various cells in the country's districts. In practice the courts freed most detainees who were not tried within the 164-day period, in accordance with the law.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, disputes over the appointment of judges undermined the independence of the judiciary in recent years. In June the president confirmed the acting attorney general, who had served in the position since 2000. The attorney general is appointed for life. The president had yet to appoint a president of the Court of Justice; the acting president had occupied his position since 2000.

The judiciary was significantly hampered by a shortage of judges, which limited the effectiveness of the civilian and military courts. There were nine permanent judges and one deputy judge for the entire country, a number that human rights groups and lawyers' associations widely viewed as inadequate. A government program to train 10 new judges continued throughout the year; they were expected to assume their duties in 2008.

Other problems the judiciary faced included financial dependency on the Ministry of Justice and Police (and hence the executive branch), lack of professional court managers and case management systems to oversee the courts' administrative functions, and lack of space. These obstacles caused a significant case backlog. The courts required a minimum of six months to process criminal cases, and most civil cases were resolved approximately three to four years after being heard by the courts.

The judicial system consisted of three lower courts, two specialized courts, and the Court of Justice as an appeals court. Although the constitution calls for the establishment of an independent constitutional court, the National Assembly had not created such a court due to concerns that it would have the authority to overturn government decisions.

*Trial Procedures.*—The law provides for the right to a fair, public trial in which defendants have the right to counsel, and the judiciary generally enforced this right. Defendants enjoy a presumption of innocence and have the right to appeal their verdict. Defendants' lawyers can question witnesses. There is no jury system. The courts assign private sector lawyers to defend indigent detainees, paying the costs from public funds. However, court-assigned lawyers, of whom there were 14, generally appeared at the trial without prior consultation with defendants. According to Moiwana '86, these lawyers often did not appear at all. To remedy this situation for juveniles, a 1-year NGO-funded pilot project was launched in July giving juvenile detainees who could not afford a lawyer immediate access to counsel upon arrest.

Military personnel generally are not subject to civilian criminal law. A member of the armed forces accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in separate courts before two military judges and one civilian judge. Due to the shortage of judges, military and civilian judges are selected from the same pool of nine permanent judges and one deputy judge by the Court of Justice, which makes assignments to specific cases. A mechanism exists to prevent conflicts of interest. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system.

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

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions in practice. The law requires warrants, which are issued by quasi-judicial officers who supervise criminal investigations, for searches. The police obtained them in the great majority of investigations.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet.

Some media members continued to practice occasional self-censorship, due to a history of intimidation and reprisals by certain elements of the former military leadership and in response to pressure by senior government officials and other important community leaders on journalists publishing negative or unflattering stories about the administration.

In April the then-vice president was reported to have engaged in press censorship after an incident in which a television program suggesting that the minister of agriculture was corrupt was interrupted abruptly. At least one newspaper raised the issue of the sensitivity of reporting on ethnic politics, suggesting that there was a reluctance to tackle the subject for fear of polarizing the country's multi-ethnic society.

After a local newspaper, *De West*, voluntarily retracted an article alleging corruption at the Foreign Exchange Commission, the agency took the matter to court demanding a second retraction be published in another daily newspaper, *De Ware Tijd*, which has the largest circulation in the country. In December the judge ruled in favor of the plaintiff, but *De Ware Tijd* refused to publish the retraction, stating it was a disinterested third party in this matter. Journalists voiced their concern

about the precedent the ruling could set, and *De West* filed an appeal against the verdict.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community numbered approximately 150.

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

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

Although the law does not address exile, it was not used in practice.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. Under special circumstances, persons may be granted refugee status, and in practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. During the year the government did not grant asylum or refugee status.

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

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Elections during the year marked the third such peaceful electoral transition; however, in its 30 years of independence, the country has experienced 2 military coups, 7 years of military rule, and 1 instance in which massive public demonstrations forced an agreement to hold elections a year early.

*Elections and Political Participation.*—The constitution provides for direct election by secret ballot of the 51-member National Assembly every 5 years. The National Assembly in turn elects the president by a two-thirds majority vote. If the legislature is unable to do so, the constitution provides that the United People's Assembly composed of members of parliament and elected regional and local officials shall elect the president. After generally free and fair elections in May, the United People's Assembly reelected incumbent Ronald Venetiaan as president in August.

Historical and cultural factors, such as early, arranged marriages for Hindu and Muslim women, impeded equal participation by women in leadership positions in government and political parties. In the past participation by women in politics (and other fields) generally was considered inappropriate. While women made limited gains in attaining political power in recent years, political circles remained under the influence of traditional male-dominated groups, and women were disadvantaged in seeking high public office. There were 13 women in the 51-seat National Assembly, and the cabinet included 2 women. In 2001 the first woman judge joined the Court of Justice. In August two women were appointed police commissioners.

Several factors traditionally limited the participation of indigenous Amerindians and Maroons—descendants of escaped slaves who fled to the interior to avoid recapture—in the political process. Most of the country's political activity takes place in the capital, Paramaribo, and in a narrow belt running east and west of it along the coast. The Maroons and Amerindians were concentrated in remote areas in the interior and therefore had limited access to, and influence on, the political process. There were three Maroon and one Amerindian political parties, and voters elected eight Maroons and one Amerindian to the National Assembly. The opportunity for Maroons to participate in the political process increased when the three Maroon parties formed a coalition for the May election and became part of the governing coalition with three Maroons in the cabinet.

*Government Corruption and Transparency.*—There was a widespread perception of corruption in the executive branch of the government, and corruption of government officials remained a problem. Shortage of personnel continued to hamper police investigations of fraud cases.

In May authorities brought two policemen and one prison officer to court for smuggling cocaine to prisoners in Paramaribo's Santo Boma prison. The three officials were all dishonorably discharged; the prison official was sentenced to 18 months in prison. In June 3 tax officials defrauded the government of \$50 thousand (SRD 140 thousand) by means of false restitution reports; unspecified internal measures were taken against them.

In May police investigated allegations of corruption at the Ministry of Public Works and in June allegations of corruption at the Ministry of Agriculture, Animal Husbandry, and Fisheries. The National Assembly lifted the ministerial immunity of former Minister of Public Works Dewanand Balesar after fraud, forgery, and extortion allegations were raised against him. At year's end the former minister remained free while police continued their preliminary investigation. The prosecution expected to start his trial in March 2006, while the other 16 suspects in this case were scheduled to go to trial in January 2006. They remained free but restricted to Paramaribo and the neighboring district of Wanica. The director of fisheries, whom the police were investigating for extortion, also was not arrested. In July police arrested a Ministry of Interior official who embezzled thousands of dollars through a pension benefits scheme.

Former Finance and Natural Resources Minister Errol Alibux, successfully prosecuted for embezzlement in 2004, awaited a decision on his challenge to the Suriname Court of Justice verdict. Alibux, who was released in August 2004 after serving eight months of his sentence, contested the 1-year prison term and 3-year bar from public office verdict at the Inter-American Commission on Human Rights (IACHR), on the grounds that since the Court of Justice is the highest court in the country, he had no venue for appeal as required by the American Convention on Human Rights.

Although the law provides for public access to government information, such access was limited in practice for both citizens and noncitizens, including foreign media. While almost every ministry has an information service, onerous bureaucratic hurdles made obtaining information very difficult.

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

A number of independent domestic human rights groups, such as the Organization for Justice and Peace, the Know Your Rights Foundation, and Moiwana '86, generally operated without government restriction, investigating and publishing their findings on human rights cases. However, government officials often were not cooperative or responsive to their views. No international human rights groups operated in the country during the year.

A parliamentary commission on human rights continued operating throughout the year, but its effectiveness was hampered by resource constraints.

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

The law prohibits discrimination based on race and ethnicity but does not address discrimination based on disability, language, or social status. While the law does not specifically prohibit gender discrimination, it provides for protection of women's rights to equal access to education, employment, and property. In practice several societal groups, including women, Maroons, Amerindians, persons with HIV/AIDS, and homosexuals, suffered various forms of discrimination.

*Women.*—Violence against women was a common problem, which the government had not addressed specifically. The law does not differentiate between domestic violence and other forms of assault. Police received 662 reports of domestic violence, the majority of which were for assault and intimidation. The NGO Stop Violence against Women reported 215 new victims during the year and stated that the police improved their attitude toward victims of domestic violence and maintained a good working relationship with NGOs. An NGO-driven network including police units worked to combat domestic violence. Public officials spoke out against domestic violence, receiving wide media coverage. There were victims' rooms in police stations in Paramaribo, and police units were trained on dealing with victims and perpetrators of sexual crimes and domestic violence.

The law prohibits rape but does not address spousal rape. The maximum penalty for rape or forcible sexual assault is a 12-year sentence. The only statistics available covered sex crimes in general: 166 new cases opened against 212 defendants; 134 suspects were under preliminary investigation but not yet formally charged at year's end.

Although the law prohibits sexual exploitation, including prostitution, in practice prostitution generally was tolerated. Concerns about the link between prostitution and trafficking in persons resulted in police raids on commercial sex locations and

arrests of several prostitutes. Poverty continued to put young women at risk of becoming prostitutes. The presence of large groups of illegal miners in the gold mining sector in the interior drew many young Maroon women and girls into prostitution. Police allowed many brothels to operate, and officials asserted that they made random checks on the brothels twice a month to see if women were being abused, held against their will, or having their passports retained by brothel owners to ensure fulfillment of work contract obligations (see section 5, Trafficking).

Women have the legal right to equal access to education, employment, and property; nevertheless, social pressures and customs, especially in rural areas, inhibited their full exercise of these rights, particularly with respect to marriage and inheritance. Social pressures on families to have their daughters married at or near the legal age of marital consent frequently interfered with the girls' education and resulted in the direct passage of all property the women would have inherited from their parents to their husband and parents-in-law in accordance with these customs.

Women experienced economic discrimination in access to employment and in rates of pay for the same or substantially similar work. According to a report, more than 60 percent of women worked in traditionally female administrative or secretarial jobs. The government did not make specific efforts to combat economic discrimination.

The National Women's Movement, the most active women's rights NGO, continued assisting women with launching small home-based businesses, such as sewing and growing vegetables, and provided general legal help. The Women's Business Group advocated business opportunities for women, while the Women's Parliament advocated opportunities in the public sector. Stop Violence against Women provided assistance to victims of domestic violence, including legal help with dissolving an abusive marriage. The Maxi Linder Foundation worked with persons in prostitution, including women and children who were victims of trafficking, and conducted outreach and informational sessions to inform victims of human rights abuses about their rights. Resource constraints continued to limit the effectiveness of these groups.

*Children.*—The government allocated limited resources to ensure safeguards for the human rights and welfare of children.

Schooling is compulsory until 12 years of age, although some school-age children, particularly in the interior, did not have access to education due to a lack of transportation, building facilities, or teachers. Although school attendance was free through university level, most public schools imposed a nominal enrollment fee, ranging from \$10 to \$35 (SRD 25 to SRD 100) a year to cover costs. Approximately 85 percent of children in cities attended school; however, as few as 50 percent of children in the interior attended school. Most children attended school through middle school level (age 16). There was no legal difference in the treatment of girls and boys in education or health care services, and in practice both were treated equally.

Government medical care for children was generally adequate, and vaccination for all children was obligatory. However, the government offered very limited mental health care. The NGO Bureau for Child Development provided mental health care for abused children. There was a home for HIV/AIDS orphans and abandoned children in Paramaribo.

While there was no societal pattern of abuse directed against children, some children were abused sexually and physically. Police received reports of 139 cases of sexual abuse of children and 59 cases of cruelty against children in the first half of the year, compared with 183 cases in all of 2004. The police Youth Affairs Office conducted three visits per week to different schools in the capital and the surrounding areas on a rotating schedule to provide outreach and raise awareness about child abuse and to solicit and investigate complaints. In August a leading newspaper published a series of articles aimed at raising awareness about child abuse, following the July arrest of an elementary school principal who had sexually molested and assaulted at least 23 boys between the ages of 6 and 12 during his 14 years in charge of the school. The school organized five counseling sessions for the victims and their parents with the assistance of the NGOs Stop Violence against Women and the Children's Foundation. Authorities scheduled the principal's trial for January 2006.

Various laws were used to prosecute perpetrators of sexual harassment, and several cases of sexual abuse against minors came to trial. The youth police reported more than 189 cases of sexual abuse against minors. Sentences averaged three years in prison. There were several orphanages and one privately funded shelter for sexually abused children in the capital, where approximately 49 percent of the country's population was concentrated.

While the legal age of sexual consent is 14, it was not enforced effectively. The marriage law, revised in 2004, sets the age of marital consent at 15 for girls and

17 for boys, provided parents of the parties agree to the marriage. Parental permission to marry is required up to age 21. The law also mandates the presence of a Civil Registry official to register all marriages.

Trafficking and commercial sexual exploitation of minors remained a problem (see section 5, Trafficking). The Salvation Army and a Catholic charitable organization provided shelter for homeless boys.

Children faced increasing economic pressure to discontinue their education to seek employment, particularly in the interior of the country, and child labor remained a problem in the informal sector (see section 6.d.).

In November the Ministry of Social Affairs and Housing and the Child Rights Bureau organized a youth discussion group for participants from Paramaribo and other districts.

The UN Children's Fund continued providing funding for a government project to assist children. The government established a national steering committee, consisting of the Ministries of Health, Education, Regional Affairs, Planning and Development Cooperation, and Labor, to direct the project.

*Trafficking in Persons.*—No comprehensive trafficking in persons law exists, but statutes that apply only to women and children prohibit "white slavery," migrant smuggling, and pimping. In practice these statutes rarely were enforced, and trafficking in persons, including for sexual exploitation, remained a problem. Criminal law prohibits solicitation and brothel operation, but the law was not enforced. The penalty for sexual exploitation, a criminal felony, is a 5-year sentence; labor exploitation is covered only by labor law and is a misdemeanor carrying a 3- to 6-month sentence. The maximum penalty for rape or forcible sexual assault is a 12-year sentence, and a person convicted of sexual exploitation that involved rape would receive the longer of the 2 sentences.

The government's Antitrafficking Commission had primary responsibility for combating trafficking; the commission included representatives from law enforcement (attorney general's office, Police Force, and the Military Police, which handles immigration), the Ministries of Justice and Police, Labor, Home Affairs, and Foreign Affairs, and, at the beginning of the year, the NGO Maxi Linder Foundation. The commission met monthly to assess the government's progress in combating trafficking in persons and coordinate new action steps. Police cooperated with Curacao, Guyanese, and Dutch law enforcement on three trafficking in persons and child smuggling cases.

The extent of trafficking of women and girls to, through, and within the country for prostitution was difficult to estimate. Several commercial sex trade establishments reportedly recruited Brazilian, Colombian, Dominican, Guyanese, and Chinese women for prostitution. Victims in commercial sex trade transited the country and were routed to the Netherlands or other European destinations to work in brothels. There also were reports of underage Hindustani and Maroon girls and Javanese and Hindustani boys trafficked within the country for prostitution by recruiters or caretakers.

The police had informal agreements with many brothel owners allowing them to proceed with their business. However, police conducted random checks to ensure that women were not mistreated, that no minors were present, and that owners did not keep the women's airline tickets and passports. During the year there were fewer than 10 reports of brothel owners retaining passports and airline tickets to uphold contract obligations. In such cases the police assisted these women to return to their country of origin at their own expense.

In July a court sentenced Deputy District Commissioner of Nieuw Nickerie Hesdy Veira to two years' imprisonment for trafficking young Guyanese women into the country to work as prostitutes in a brothel he owned. In December police arrested Henk Kunath, owner of Paramaribo's largest brothel, Diamond, for trafficking a Brazilian woman to work in his brothel. Kunath, a Dutch national permanently residing in the country, was previously arrested and sentenced for trafficking and human smuggling in Brazil. Kunath spent several weeks in custody but was later released pending the conclusion of investigation. Authorities expected to try Kunath in early 2006.

The public prosecutor's office and the police established a registry of all brothels and their employees by nationality. The police continued operating a telephone hot line to handle all cases from the commercial sex industry.

The Special Antitrafficking Police Unit conducted limited investigations and raids throughout the year. Raids on brothels and informal commercial sex locations resulted in the deportation of foreign women in prostitution for immigration violations and continuing investigations into several cases of potential trafficking of victims of Guyanese, Dominican, Haitian, and Chinese nationalities. An NGO receiving gov-

ernment funding, the Maxi Linder Foundation, continued working with trafficking victims, providing counseling and rehabilitative training.

There were reports that government officials, including consular affairs, customs, and immigration officials, facilitated trafficking in persons by allowing individuals who were not bona fide visitors for a legitimate purpose to enter the country.

In April government and NGO participants received three days of training on investigating and prosecuting human trafficking, including trafficking victim witness interviewing techniques. In November the government organized two train-the-trainer workshops, one for immigration and one for police officials, in cooperation with the International Organization for Migration.

*Persons with Disabilities.*—There were no laws prohibiting discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of state services. There were no laws, provisions, or programs to ensure access to buildings for persons with disabilities. Some training programs were provided for the blind and others with disabilities. In general persons with disabilities suffered from discrimination when applying for jobs and services. A Ministry of Social Affairs working group remained responsible for protecting the rights of persons with disabilities, but made no progress during the year.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination on the basis of race or ethnicity, and no discrimination complaints were filed during the year. Nonetheless, Maroons, who numbered approximately 15 percent of the population, generally continued to be disadvantaged in the areas of education, employment, and government services. Most Maroons lived in the interior, where limited infrastructure narrowed their access to educational and professional opportunities and health and social services. Maroons in Paramaribo suffered from negative social stereotypes.

Unlike the previous year, there were no new protests by residents of neighboring Maroon villages against gold mining activities by the Gross Rosebel Goldmines Company in the interior. Some forms of discrimination that affected indigenous Amerindians also extended to Maroons (see section 5, Indigenous People).

*Indigenous People.*—The law affords no special protection for, or recognition of, indigenous people. Most Amerindians (approximately 3 percent of the population) suffered a number of disadvantages and had only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs were concentrated in the capital and its environs, while the majority of Amerindians (as well as Maroons) lived in the interior, where government services were largely unavailable.

Official and informal meetings between the parties involved in implementing the 2001 Lelydorp Accord continued without substantive results. No former Jungle Commando members were integrated into the Police Force, but some obtained jobs with the government.

The Amerindian (and Maroon) populations continued to face problems with illegal and uncontrolled logging and mining.

Organizations representing Maroon and Amerindian communities complained that small-scale mining operations, mainly by illegal gold miners, dug trenches that cut residents off from their agricultural land and threatened to drive them away from their traditional settlements. Mercury runoff from these operations also contaminated and threatened traditional food source areas.

In 2000 the Vereniging van Saramakaaanse Gezagdragers, an organization representing 12 Saramaccaner clans with authority over 60 villages in the Upper Suriname River area, filed a petition with the IACHR claiming that lumber operations, mostly by Chinese-owned concessions, threatened their way of life. The IACHR heard the case during the year, and a decision was expected at the end of January 2006.

Human rights and environmental groups continued monitoring the joint venture activities of SURALCO and BHP Billiton, which were exploring the possibility of mining bauxite and generating hydropower in the western part of the country.

Maroon and Amerindian groups continued to cooperate with each other in an effort to exercise their rights more effectively. NGOs such as Moiwana '86 continued working to promote the rights of indigenous people.

*Other Societal Abuses and Discrimination.*—Although the law prohibits discrimination on the basis of sexual orientation, there were reports that homosexuals continued to suffer from employment discrimination. Persons with HIV/AIDS continued to experience societal discrimination in employment and medical services. Hospital workers and other health professionals were reluctant to treat infected persons. Barbers and taxi drivers declined to provide services to children from a home for HIV-infected children.

The steering committee established in 2004 by the Ministry of Health, consisting of officials from the Ministries of Health, Social Affairs, Finance, Education, and Planning and Development Cooperation, continued working on the National Strategic Plan for HIV/AIDS along with a newly revamped National AIDS Program. An interagency working group, consisting of representatives from NGOs, government, and civil society, was tasked with reducing stigmatization of HIV/AIDS victims. In June the then minister of labor spoke out against HIV/AIDS-based employment discrimination during a workshop organized by the International Labor Organization (ILO) and trade unions. In December the first voluntary HIV counseling and testing site opened in Albina, in the eastern part of the country, and the government launched a successful know-your-status campaign to encourage voluntary testing.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and the workers did so in practice. Nearly 60 percent of the work force was organized into unions, and most unions belonged to one of the country's six major labor federations. Unions were independent of the government but played an active role in politics.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the government generally protected this right in practice. Collective bargaining agreements covered approximately 50 percent of the labor force.

The law provides for the right to strike, and workers in both public and private sectors exercised this right in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits all forms of forced or compulsory labor, including by children, child prostitution continued (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age for employment at 14 years and restricts working hours for minors to day shifts but does not specify the length of such day shifts. Children younger than 18 are prohibited from doing hazardous work, defined as work dangerous to their life, health, and decency; those younger than 14 are only allowed to work in a family or special vocational setting or for educational purpose. However, the Ministry of Labor and the police enforced this law sporadically, and child labor remained a problem in the informal sector, especially in the districts of Nickerie and Saramacca in the west.

Children under 14 worked as street vendors, newspaper sellers, rice and lumber mill workers, packers for traders, or shop assistants. Working hours for youths were not limited in comparison with the regular work force. Employers in these sectors did not guarantee work safety, and children often worked barefoot and without protective gloves, with no access to medical care. Although government figures reported that only 2 percent of children were economically active, a 2002 survey conducted by the Institute for Training and Research found that 50 percent of children between the ages of 4 and 14 were economically active, working mainly in the informal sector. The worst forms of child labor, such as prostitution, remained a problem; there were reports of commercial sexual exploitation of children and teenagers by caretakers and older recruiters (see section 5).

The Ministry of Labor's Department of Labor Inspection, with approximately 54 inspectors, has responsibility to implement and enforce labor laws, including those pertaining to the worst forms of child labor. Inspectors performed approximately 10 inspections per day, concentrated in the greater capital area. The government did not investigate exploitative child labor cases outside urban areas. An estimated 510 inspections were performed during the year, with none resulting in penalties or convictions for child labor. As in the past, labor inspectors were not authorized to conduct inspections in the informal sector, where child labor remained a problem, as responsibility for controlling the informal sector lies with police.

The police continued raids on known child labor locations in Paramaribo, including street spots where underage vendors worked, as well as nightclubs, casinos, and brothels, to combat the problem.

Suriname Labor College and other unions subsidized by the Ministry of Labor conducted campaigns aimed at eliminating child labor in its worst forms in various districts of the country, including Nickerie, Paramaribo, and Marowijne; the campaign targeted public and private sector officials, school teachers, students, and caregivers. A government-subsidized NGO, Welzijn Institute Nickerie, operated a day center in Nickerie, training school dropouts in gardening work and providing



employment assistance. ILO officials visited the country in February to train labor inspectors and in May to train officials from the Suriname Labor College.

*e. Acceptable Conditions of Work.*—There was no legislation providing for a minimum wage. Including a cost of living allowance, the lowest wage for civil servants was approximately \$190 (SRD 512) per month, which did not provide a decent standard of living for a worker and family. Government employees, who constituted approximately 50 percent of the work force of 100 thousand persons, frequently supplemented their salaries with second or third jobs, often in the informal sector. The president and the Council of Ministers set and approved civil service wage increases.

Work in excess of 45 hours per week on a regular basis required special government permission, which was granted routinely. Such overtime work earned premium pay. The law prohibits excessive overtime and requires a 24-hour rest period per week.

A 10- to 12-member inspectorate in the Occupational Health and Safety Division of the Ministry of Labor was responsible for enforcing occupational safety and health regulations. Resource constraints and lack of trained personnel precluded the division from making regular inspections. There was no law authorizing workers to refuse to work in circumstances they deem unsafe; they must appeal to the inspectorate to declare the workplace situation unsafe.

## TRINIDAD AND TOBAGO

Trinidad and Tobago is a parliamentary democracy governed by a prime minister and a bicameral legislature. The population was approximately 1.3 million. Tobago has a House of Assembly that has some administrative autonomy over local matters on that island. In the 2002 elections, which observers considered generally free and fair, Prime Minister Patrick Manning's People's National Movement (PNM) secured a 20 to 16 seat victory over the United National Congress (UNC). The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas:

- police killings during apprehension and deaths in custody
- police and guard abuse of detainees and prisoners
- poor prison conditions
- violence against women
- inadequate services for vulnerable children
- lack of opportunities for persons with disabilities

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, 13 persons died during the year while in police custody or at the hands of police.

On May 6, a policeman shot Mervyn Caton during communal celebrations at Point Fortin; he died in the hospital on May 19. The case was scheduled for a court hearing early in 2006. On May 27, an off-duty policeman shot and killed an unidentified man who had allegedly pointed his gun at the policeman during an attempted robbery of a taxi driver. This case was still under investigation by the police at year's end.

On October 11, police officers killed Jameel Alexander and Anthony Ellis during an exchange of gunfire in Port of Spain; on October 29, police officers killed Calvin Campbell, whom they were attempting to arrest on charges of kidnapping, robbery, and arms possession; and on November 23, police reportedly killed accused murderer Damian Gould, who had escaped from a police holding cell in Scarborough, Tobago. At year's end all three cases were under investigation by the complaints division of the police service.

The number of killings of innocent citizens at the hands of gangs and individual criminals rose sharply: there were 386 such killings, surpassing the 259 citizens killed in 2004.

There was no definitive resolution of the investigations into any of the persons killed by police during 2004, including Galene Bonadie and Noel Stanley.

In April and July, the director of public prosecutions reiterated his request for a police report of the circumstances surrounding the 2001 death of Marcel McLeod, allegedly killed in a shootout with police. By year's end, however, the report had not been produced.

In August authorities ordered a retrial in the case of a prison officer charged with the 2001 death of prisoner Anton Cooper, but it had not taken place by year's end.

*b. Disappearance.*—While there were no reports of politically motivated disappearances, there was a substantial increase in criminal kidnappings, including kidnappings for ransom. During the year 235 citizens were kidnapped, including 54 for ransom, compared with 177 and 28 respectively, during 2004.

A growing number of citizens and some commentators believed that corrupt police officers were involved in kidnappings. In August authorities arrested two members of the special reserve police for their alleged role in a kidnapping characterized by the media as “high-profile” because the two victims were sons of a well-known businessman and one of the police officers was himself a member of a prominent family. Authorities had the two officers under investigation at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices, there were credible reports of police officers and prison guards mistreating individuals under arrest or in detention.

According to prison authorities, there were two cases before the courts at year's end in which prisoners charged prison guards with assault and battery. During the year authorities suspended 12 prison guards and pressed charges against 2 of them for poor conduct on the job, including possession of narcotics and provision of cell phones to inmates, reportedly under threat of violence. According to prison authorities, out of a prison guard complement of 2,050, 36 guards were under suspension and investigation for behavior incompatible with service as a law enforcement officer.

At year's end investigations and legal proceedings continued in the 2004 case of Camille Mitchell, who claimed that she suffered a miscarriage as a result of police mistreatment during a search of her home.

A court dismissed the 2004 case in which a Golden Grove Remand Center inmate sued five officers and the Attorney General's Office, claiming that prison guards beat him with a hose and sexually assaulted him with a wooden baton. The court determined that the inmate's allegations lacked substance.

A 2003 lawsuit, in which Danesh Mahabir charged police officers with assault, battery, and unlawful detention, continued in the courts at year's end.

*Prison and Detention Center Conditions.*—Conditions in the prison system's eight facilities were upgraded but continued to be harsh. A 2002 government report on the prison service and the broader criminal justice system recommended transforming the system to focus on rehabilitation. To fulfill this goal, the government initially focused on overcrowding and unsanitary conditions at the Port of Spain prison. According to the newly appointed prison service commissioner, the number of prisoners at this facility, originally designed to accommodate 250 inmates, was reduced from 900 in 2004 to 650 at year's end. The number of prisoners in each 10- by 10-foot cell also was reduced from a maximum of 14 or more to a maximum of 5. The most recently built maximum-security prison in Arouca helped relieve the overcrowding at the Port of Spain prison. Other improvements included repainting, better lighting, improved toilet facilities, and more hygienic food service arrangements.

Significant staff shortages compelled the prison service to decrease the “airing” time provided to prison inmates. This issue served as the basis of a complaint filed against the prison service by death row inmate Alladin Mohammed, which was still pending at year's end.

Pretrial detainees were held separately from convicted prisoners, usually in the remand section of the same facilities as convicted prisoners. However, convicted prisoners often were held in the remand section until they exhausted their appeals.

The government permitted prison visits by independent human rights observers, but the Ministry of National Security must approve each visit. Following prison visits during the year, members of the Criminal Bar Association first threatened legal action if the government did not take steps to improve prison conditions, and then filed two constitutional motions in the high court in an effort to apply greater pressure upon the prison service. Those motions were pending at year's end.

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

*Role of the Police and Security Apparatus.*—The Ministry of National Security oversees the police service, the prison service, and the defense force. The police serv-

ice maintains internal security, while the defense force is responsible for external security but also has certain domestic security responsibilities. An independent body, the Police Service Commission, makes hiring and firing decisions in the police service, and the ministry has little direct influence over changes in senior positions.

The national police force comprises 9 countrywide divisions, including 17 specialized branches, and has approximately 7 thousand members. The Police Service Commission, in consultation with the prime minister, appoints a commissioner of police to oversee the police force. Municipal police under the jurisdiction of 14 regional administrative bodies supplement the national police force. The Special Anticrime Unit, composed of both police and defense force personnel, combats violent crime—including kidnappings for ransom—and carries out other security operations.

Police corruption continued to be a problem. On a number of occasions during the year, the authorities apprehended members of the police in connection with illegal drugs, firearms possession, and other illicit activities. The Police Complaints Authority receives complaints about the conduct of police officers for transmittal to the Complaints Division of the Police Service where uniformed officers investigate them. The authority simply monitors the division's investigations and its disciplinary measures. However, Police Service Commission restrictions limit the division's ability to dismiss police officers. The facts that the Police Complaints Authority has no power to investigate complaints and that those investigating complaints against the police are themselves police officers eroded the public's confidence in the entire police complaints process.

*Arrest and Detention.*—A police officer may arrest a person either based on a warrant issued or authorized by a magistrate, or without a warrant when the officer witnesses the commission of an alleged offense. Detainees, as well as those summoned to appear before a magistrate, must appear in court within 48 hours. In the case of more serious offenses, the magistrate either commits the accused to prison on remand or allows the accused to post bail, pending a preliminary inquiry. Detainees were granted prompt access to a lawyer and to family members.

There is a functioning bail system, although persons charged with murder, treason, piracy, and hijacking are ineligible. Where bail is refused, magistrates advise the accused of their right to an attorney and, with few exceptions, allow them access to an attorney, once they are in custody and prior to any interrogation. In December parliament passed a bill that precludes the granting of bail to any person charged with kidnapping for ransom for a period of 60 days following the charge, as well as to individuals who have already been convicted twice of violent crimes.

The minister of national security may authorize preventive detention in order to preclude actions prejudicial to public safety, public order, or national defense, in which case the minister must state the grounds for the detention. There were no reports that the authorities abused this power.

There were no reports of political detainees.

Lengthy pretrial detention resulting from heavy court backlogs and an inefficient judicial system continued to be a problem. Out of a prison population of 3,730, 1,573 inmates were waiting to be tried at year's end. While the law requires waiting times for magistrate's court hearings to be no longer than 10 days, criminal indicts often waited months, if not years, for their trial dates in the high court.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision in practice. The judiciary provided citizens with a fair judicial process, albeit at a slow pace due to backlogs and inefficiencies.

The judiciary is divided into the Supreme Court of Judicature and the Magistracy. The Supreme Court is composed of the high court and a court of appeal. The Magistracy includes the summary courts and the petty civil courts. Civil matters can be heard by both the high court and petty civil court, with the petty civil court authorized to hear only cases involving damages of up to \$2,500 (TT\$15 thousand).

*Trial Procedures.*—Magistrates try both minor and more serious offenses, but in the case of more serious offenses, the magistrate must conduct a preliminary inquiry. Trials are public, and juries are used in the high court. Defendants have the right to be present, are presumed innocent until proven guilty, and have the right to appeal. While all defendants have the right to consult with an attorney in a timely manner, an attorney is provided at public expense to defendants facing serious criminal charges, and the law requires the provision of an attorney to a person accused of murder. Although the courts may appoint attorneys for indigent persons charged with indictable offenses (serious crimes), an indigent person may refuse to accept an assigned attorney for cause and may obtain a replacement. Defendants can confront or question witnesses against them, can present witnesses and evi-

dence on their own behalf, and have access to government-held evidence relevant to their cases.

Both civil and criminal appeals may be filed with the local court of appeal and ultimately with the Privy Council in London.

Although the regional Caribbean Court of Justice (CCJ), intended to be a final court of appeal for member states, was inaugurated in April, the government had not passed legislation for it to play this role. The CCJ has a separate original jurisdiction whereby it interprets and applies, for all 15 member states of the Caribbean Community (CARICOM), the treaty which established CARICOM as well as the agreement creating the Caribbean Single Market and Economy.

In a September 16 speech marking the opening of the annual law term, Chief Justice Satnarine Sharma described progress made during the year in modernizing some dilapidated court buildings and measures to speed up trials, such as replacement of antiquated court reporting systems with new audio-digital recording equipment as well as more efficient case management procedures. However, he also criticized declining behavioral standards and ethics on the part of certain members of the bar, citing a case in which he said the prosecuting attorney cross-examined a witness as brutally as if she were one of the accused murderers in the dock.

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

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

#### *Section 2. Respect for Civil Liberties, Including:*

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

In May the telecommunications authority disseminated for public comment a proposed broadcasting code of conduct, in what it claimed to be an effort to moderate the interracial animosity which characterized some of the country's talk shows. However, media and broadcasting professionals and their associations criticized the plan so harshly as an infringement on the right to free speech that the authority withdrew the proposed code for possible redrafting at a later time.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

The government limits the number of foreign missionaries allowed to enter the country to 30 per denomination. Missionaries must meet standard requirements for an entry visa and must represent a registered religious group. They may not remain in the country for more than three years at a time, but may re-enter after a year's absence.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

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

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

The law prohibits forced exile, and it was not used.

In 2000 the government acceded to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government had not passed legislation to implement its obligations under the convention. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government placed asylum seekers in the care of the Living Water Community, a local Catholic social services agency, while their cases were reviewed by UNHCR and final resolution reached. Pending parliament's approval of legislation implementing the UN convention and its protocol, the Ministry of National Security's immigration division handled all requests for asylum on a case-by-case basis.

The government did not provide temporary protection to persons who may not qualify as refugees, but the Living Water Community provided such persons with needed social services.

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

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

*Elections and Political Participation.*—The most recent national election was held in 2002, and observers found it to be generally free and fair. The two major political parties are the PNM, which is primarily but not exclusively Afro-Trinidadian, and the UNC, which is primarily but not exclusively Indo-Trinidadian. A majority of voters in the 2002 national election supported the PNM, which retained control of the government.

There were 18 women in the 67-seat legislature, excluding the female president of the Senate; 9 women in the cabinet; and 10 female judges on the high court and the court of appeal. Both major political parties reached out to voters from relatively small ethnic minorities, such as the Chinese, Syrian, Lebanese, and European-origin communities, and members of these groups held important positions in government. There were six members of these minorities in the legislature and two members of minorities in the cabinet.

*Government Corruption and Transparency.*—There was a widespread and growing public perception of corruption in the country.

In April there were reports that Minister of Works and Transport and PNM Party Chairman Franklyn Khan and Minister of Energy and Energy Industries Eric Williams had received bribes from Dansam Dhansook, a local PNM councilman and businessman. While Williams maintained his innocence, Khan resigned his cabinet post in May. In November authorities arrested Khan and charged him with six counts of misbehavior in public office for allegedly accepting \$20 thousand (TT\$120 thousand) for providing a contract to Dhansook's firm for seismic services. In December Khan resigned his PNM party chairmanship, and the case against him was still in the courts, pending further investigation. At year's end authorities continued to investigate the allegations against Williams.

The courts continued to hear a case that implicated the most senior members of the 1995–2001 UNC government in embezzlement and bid-rigging on the Piarco Airport expansion project. In May authorities arrested former UNC Prime Minister Basdeo Panday and charged him with corruption for accepting a bribe that allegedly led the Panday government to favor a contractor on the Piarco project. Panday, UNC party chairman and leader of the opposition, spent some days in jail before being released on bail. After a brief court hearing in December, the matter was adjourned until 2006.

A committee of experts continued to work on reform of the public procurement regime that would enhance public accountability and reduce opportunities for corruption by government officials.

The Integrity in Public Life Act mandates that public officials disclose their assets, income, and liabilities to an integrity commission. However, a growing number of officials and candidates for public office were reluctant to comply with this provision, claiming that such disclosures would make them and their families a target of the increasing number of criminals engaged in kidnappings for ransom. Panday continued to contest a 2002 arraignment under this act for allegedly failing to declare a London bank account during his tenure as prime minister. After Panday tried unsuccessfully through the entire court system to have the charge against him dismissed, the case was scheduled for its first hearing in early 2006.

In December the Integrity Commission reportedly exempted judges from the disclosure provisions, which led eight independent members of the Senate, who are appointed by the president, to argue that they too should be exempted. At year's end the Integrity Commission formally requested the high court to rule on the constitutionality of exempting judges from the disclosure provisions of the Integrity in Public Life Act.

The Freedom of Information Act provides for public access to government documents, upon application. When critics charged that a growing number of public bodies were exempted from the act's coverage, the government countered that the exemptions were intended to avoid frivolous requests and searches for information.

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

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

The ombudsman investigates citizens' complaints concerning the administrative decisions of government agencies. Where there is evidence of a breach of duty, misconduct, or criminal offense, the ombudsman may refer the matter to the authority competent to take appropriate remedial action. The ombudsman has a quasi-autonomous status within the government and publishes a comprehensive annual report. In 2004 the ombudsman resolved 954 complaints, received 1,012 new complaints, and continued investigating 2,664 complaints carried over from previous years.

In 1999 the government withdrew from the American Convention on Human Rights. The convention states that such an action does not release a government from its obligations under the convention with respect to acts taken prior to the effective date of denunciation. In February and March the Inter-American Court of Human Rights issued rulings on cases predating the government's withdrawal; by year's end the government had not provided any official or public reaction to the rulings.

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

The government generally respected in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or gender.

*Women.*—Many community leaders asserted that abuse of women, particularly in the form of domestic violence, continued to be a significant problem. The law provides for protection orders separating the perpetrators of domestic violence, including abusive spouses, from their victims, as well as for penalties that include fines and imprisonment. While reliable national statistics were not available, women's groups estimated that from 20 to 25 percent of all women suffered abuse. Increased media attention to domestic violence resulted in a clear shift in public opinion from past views that had held that abuse of women in the home was a private matter.

NGOs charged that police enforcement of the law often was lax. According to both the government and NGOs, enforcement was weakened following the 1996 decentralization of the community policing unit specially trained to handle crimes against women. The Division of Gender Affairs (DGA) in the Ministry of Community Development, Culture, and Gender Affairs operated a 24-hour hot line for victims of rape, spousal abuse and other violence against women, referring callers to 8 shelters for battered women, a rape crisis center, counseling services, support groups, and other assistance.

Although rape, including spousal rape, is illegal and punishable by life imprisonment, the courts often handed down considerably shorter sentences. Both the government and NGOs estimated that many incidents of rape and other sexual crimes were unreported, partly due to perceived insensitivity on the part of the police.

Prostitution is illegal, and the authorities continued to monitor, investigate, and prosecute major operators believed to be engaged in soliciting for prostitution. In September authorities apprehended 28 women (26 Colombians and 2 Venezuelans) working in the capital's "red-light" district after they had entered the country illegally.

There are no laws specifically prohibiting sexual harassment. Although related statutes could be used to prosecute perpetrators of sexual harassment, and although some trade unions have incorporated antiharassment provisions in their contracts, both the government and NGOs suspected that many incidents of sexual harassment went unreported.

Women generally enjoyed the same legal rights as men, including employment, education, and inheritance rights. There are no laws or regulations requiring equal pay for equal work. While equal pay for men and women in public service is the rule rather than the exception, both the government and NGOs noted considerable disparities in pay between men and women in the private sector, particularly in agriculture.

The DGA had primary government responsibility for the protection of women's rights and women's advancement and sponsored income-generation workshops for unemployed single mothers, nontraditional skills training for women, and seminars for men on redefining masculinity.

*Children.*—A lack of funds and expanding social needs challenged the government's ability to carry out its commitment to protect the rights and welfare of children.

Education is free, compulsory, and universal up to the age of 12. The Ministry of Education estimated that 89 percent of school-age children attended school. Public education is available through the age of 20, and most students achieved the equivalent of a high school diploma. Some parts of the public school system failed to meet the needs of the school-age population due to overcrowding, substandard

physical facilities, and occasional classroom violence. The government committed resources to building new facilities and expanded access to free secondary education.

Medical care for children was widely available, with equal access for girls and boys.

The Domestic Violence Act provides protection for children abused at home. Abused children removed from the home were first assessed at a reception center for vulnerable children and then placed with relatives, government institutions, or nongovernmental organizations (NGOs). There was one reception center for vulnerable children. The Coalition against Domestic Violence operated Childline, a free and confidential telephone hot line, e-mail address, and Web site for at-risk or distressed children and young persons up to age 25. In 2004 Childline received 3,184 calls, 74 percent from girls and 26 percent from boys.

The law defines a child as under 18 years of age, outlaws corporal punishment for children, and prohibits sentencing a child to prison. Under the Marriage Act, the minimum legal age of marriage is 18 for both males and females. However, in practice the minimum legal age of marriage is determined by the distinct laws and attitudes of the various religious denominations: under the Muslim Marriage and Divorce Act, the minimum legal age of marriage is 16 for males and 12 for females, while under the Hindu Marriage Act and the Orisa Marriage Act, the minimum legal age of marriage is 18 for males and 16 for females.

*Trafficking in Persons.*—Although the law does not specifically prohibit trafficking in persons, there were no substantiated reports that persons were trafficked to, from, or within the country. In the event of trafficking, perpetrators can be prosecuted under several related laws, with penalties ranging from seven years' to life imprisonment. There were no prosecutions during the year.

The government had not designated a specific agency to combat trafficking in persons, and it sponsored no public awareness campaigns to address this issue during the year. However, in September the government cooperated with the International Organization for Migration in a seminar on trafficking in persons as a first step in promoting an understanding of trafficking in persons and assessing the extent of its prevalence in the country. Domestic NGOs were available to provide care and protection to trafficking victims.

*Persons with Disabilities.*—There are no statutes either prohibiting discrimination on the basis of disability or mandating equal access for the disabled to the political process, employment, education, transportation, housing, health-care, and other citizen services. In practice persons with disabilities faced discrimination and denial of opportunities in the form of architectural barriers, employer reluctance to make necessary accommodations that would enable otherwise qualified job candidates to work, an absence of support services to assist children with special needs to study, lowered expectations of the abilities of persons with disabilities, condescending attitudes, and disrespect. According to the NGO Disabled People's International (DPI), the parliament building as well as many polling stations were inaccessible to wheelchair users. A 116-day demonstration led by DPI against National Flour Mills, a major public-private enterprise, in 2003 for its refusal to consider job applicants with severe disabilities for employment, did not prompt a change in corporate policy but did raise media and public awareness of the exclusionary practices and unequal treatment suffered by persons with disabilities.

The national library is widely regarded by the disabled community as a model of barrier-free design and genuinely equal service to patrons with disabilities. In January the University of the West Indies inaugurated, at its St. Augustine campus, a "disability studies" program in its department of behavioral sciences. At year's end the university was adding a research capability to complement its classroom activity in this subject area. In February a court was notified that the Prison Service Commission promoted prison officer Graeme Lewis to prison supervisor retroactively. Lewis had been passed over repeatedly for promotion after being confined to a wheelchair when an escaped convict shot him in 1990.

*National/Racial/Ethnic Minorities.*—The country's diverse racial and ethnic groups lived together in what appeared on the surface to be peace and mutual respect. However, nonviolent racial tensions regularly emerged between Afro-Trinidadians and Indo-Trinidadians who each comprised approximately 40 percent of the population.

Indo-Trinidadians and persons of European, Middle Eastern, and Asian descent predominated in the private sector, and Indo-Trinidadians also predominated in agriculture. Afro-Trinidadians were employed heavily in the civil service, the police, and the defense force. Some Indo-Trinidadians asserted that they were not equally represented in senior civil service and protective service positions and among winners of state-sponsored housing grants and scholarships. In addition some Indo-

Trinidadians denounced the use of the Trinity Cross as the country's highest honor, claiming that its Christian motif was not representative of a multireligious society.

*Indigenous People.*—A very small group of people identified themselves as descendants of the country's original Amerindian population. The government effectively protected their civil and political rights, and they were not subject to discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including those in state-owned enterprises, may form and join unions of their own choosing without prior authorization. The law also provides for the mandatory recognition of a trade union when it represents 51 percent or more of the workers in a specified bargaining unit. According to the National Trade Union Center, one of two umbrella organizations in the labor movement, some 22 to 24 percent of the workforce was organized in approximately 25 active unions. Most unions were independent of government or political party control, although the Sugar Workers' Union historically was allied with the UNC. A union also may bring a request for enforcement to the Industrial Court, which may order employers found guilty of antiunion activities to reinstate workers and pay compensation, or may impose other penalties including imprisonment.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, to participate in collective bargaining and to strike, and the government protected these rights in practice. However, employees in "essential services," such as police and teachers, do not have the right to strike. These employees negotiate with the government's chief personnel officer to resolve labor disputes. In May the International Labor Organization (ILO) criticized the government's definition of "essential services" as too broad and urged parliament to pass legislation to narrow the definition. There was no official response to the ILO request. There were no significant legal strikes during the year.

There are several export processing zones where the same labor laws are in effect as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law does not specifically prohibit forced or compulsory labor, including by children, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may work only in family businesses. Children under the age of 18 may work legally only during daylight hours, with the exception that 16- to 18-year-olds may work at night in sugar factories. The Ministry of Labor and Small and Micro Enterprise Development and the Social Services Delivery Unit in the Office of the Prime Minister are responsible for enforcing child labor provisions. However, enforcement was not consistent since there was no comprehensive government policy on child labor and no formal mechanisms for receiving, investigating, and resolving child labor complaints.

There was no organized exploitation of child labor. A 2004 study by the UN Children's Fund estimated that 2 percent of children from 5 to 14 years of age were engaged in paid work.

The government had not passed implementing legislation for ILO conventions 182 and 138, both of which it has ratified. The National Steering Committee on the Prevention and Elimination of Child Labor completed a comprehensive draft national policy on child labor, which awaited cabinet approval at year's end.

*e. Acceptable Conditions of Work.*—The national minimum wage is \$1.50 (TT\$9.00) per hour, which did not provide a decent standard of living for a worker and family. Actual wages varied considerably among industries, and most workers earned more than the minimum wage. The labor ministry enforced minimum wage regulations effectively.

The law establishes a 40-hour workweek, a daily period for lunch or rest, and premium pay for overtime. The law does not prohibit excessive or compulsory overtime.

The law establishes health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The law protects workers who file complaints with the labor ministry regarding illegal or hazardous working conditions. If complainants refuse to comply with an order that would place them in danger, and if it is determined upon inspection that hazardous conditions exist in the workplace, the complainants are absolved from blame. A number of highly publicized industrial accidents during the year galvanized the trade union movement into pressuring the government, through street demonstrations, to put into effect a stronger Occupational Safety and Health bill that parliament had already



passed and to which the president had already assented. However, the government was intent on amending the bill and did not submit a revised bill to parliament by year's end.

## URUGUAY

The Oriental Republic of Uruguay, with a population of approximately 3.4 million, is a constitutional republic with an elected president and a bicameral legislature. In October 2004 in free and fair, multiparty elections, Tabare Vazquez, leader of the Broad Front or Frente Amplio (FA) coalition, won a 5-year presidential term. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the rights of its citizens. Human rights groups reported fewer complaints of police brutality than in previous years. There were reports of the following human rights problems:

- harsh prison conditions and abuse of prisoners
- violence against women
- discrimination against women and the Afro-Uruguayan minority
- trafficking in persons

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed political killings.

In September a judge dismissed the 2003 aggravated homicide cases filed against Juan Carlos Blanco and Juan Bordaberry in connection with disappearances and apparent deaths of citizens during the military dictatorship of 1973–85. The judge ruled that the statute of limitations on the case had expired, a decision that the prosecutor in the case has appealed. During the year the government increased its efforts to investigate abuse cases perpetrated during the dictatorship.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and unlike last year, there were no reports that government officials employed them. The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. Human rights groups reported that police sometimes mistreated detainees. Detainees rarely filed complaints, but the government investigated those complaints that were filed.

*Prison and Detention Center Conditions.*—Conditions in prisons were poor and deteriorated during the year, as aging facilities were not adequately maintained. There were numerous reports of abuse of prisoners. There were no new developments in the investigation into a claim that a guard at the Libertad prison tortured two prisoners in 2004. Human rights groups and an organization of the families of prisoners alleged that prisoners were routinely beaten during processing and during searches; that food, bedding, and clothing were of poor quality and insufficient quantity; and that access to medical care was poor. A prison director stated that prisoners received a little more than half of the recommended daily food allowance, and prisoners' families had to provide additional food. A September television report showed 15 prisoners held in a cell designed for 2, deteriorating cells, and unsanitary conditions.

Overcrowding continued due to budget problems and strong minimum sentencing guidelines. Through an early release program enacted in October, the prison population decreased slightly during the year to approximately 6,500 prisoners in facilities designed to hold 2,940. The overcrowding caused sanitation, social, and health problems in the major facilities. The Libertad prison, badly damaged in a riot in 2002, held hundreds of prisoners, despite its official status as a condemned building. In August when a violent storm destroyed part of the roof at the prison, officials could not provide adequate alternative shelter. The government continued to hold some prisoners in modified shipping containers; the cells lacked running water and posed sanitation problems.

In addition to overcrowding, the penal system suffered from understaffing and corruption. Authorities did not always separate prisoners according to the severity of their crimes. Narcotics and weapons were smuggled into several facilities, allegedly with official collusion. Prison officials complicated family visitation, in which

family members provide food to supplement a prisoner's diet, and subjected family members to invasive searches, sometimes under unhygienic conditions.

Disease transmission rates and the extent of HIV infection within the inmate population were unknown.

Female prisoners were held in separate facilities from male prisoners except for the Artigas prison, in which women were held in a separate facility within the prison. In general conditions for female prisoners were significantly better than for male prisoners due to the small population and the availability of training and education opportunities.

The National Institute for Adolescents and Children (INAU) operated institutions to hold minor detainees. Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resemble traditional jails and have cells. Conditions in some of these facilities were as bad as in the adult versions, with some youths permitted to leave their cells only one hour per day.

Judges placed most juvenile offenders in halfway houses which focused on rehabilitation. These facilities provided educational, vocational, and other opportunities, and the juvenile offenders were able to enter and leave without restriction.

Pretrial detainees were not held separately from convicted prisoners.

The government permitted general prison visits by independent human rights observers as well as inmate visitation and visits from foreign diplomats.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions in practice. The law requires the police to have a written warrant issued by a judge before making an arrest (except when the police apprehend the accused during commission of a crime), and the authorities generally respected this provision in practice.

*Role of the Police and Security Apparatus.*—The Ministry of Interior administers the National Police and the prison system and is responsible for domestic security and public safety. The National Police have a hierarchical structure: the chief of police, director of its intelligence unit, and director of the drug unit report to the vice minister of interior.

An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it was understaffed and only could issue recommendations for disciplinary action. Ministry of Interior authorities responded promptly to accusations of alleged police brutality. Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes were separated from active service until a court resolves their cases. The law requires a proportional use of force by the police and the use of weapons only as a last resort; this law was respected in practice.

*Arrest and Detention.*—The law provides the accused with the right to a prompt judicial determination of the legality of detention, which is not always respected, and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. The law stipulates that confessions obtained by the police before a detainee appears before a judge and attorney (without the police present) are not valid. Further, a judge must investigate any detainee claim of mistreatment.

If the detainee cannot afford a lawyer, the courts appoint a public defender. Judges rarely granted bail for persons accused of crimes that carry at least two years in prison. Between 60 and 65 percent of all persons incarcerated were awaiting a final decision in their case. Because these procedures applied to only the most serious cases, most persons facing charges were not jailed. The length of time an accused spends in jail pending trial varied and contributed to tension in the prisons. There were no reports of political detainees.

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

The Supreme Court heads the judiciary system and supervises the work of the lower courts. Criminal trials are held in a court of first instance. Aggrieved parties have a right of appeal to the appellate court but not to the Supreme Court. A parallel military court system operates under a military justice code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

*Trial Procedures.*—Trial proceedings usually are based on written arguments to the judge, which normally are not made public. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Human rights groups reported some difficulty in maintaining confidentiality between client and attorney. Individual judges may hear oral arguments at their option. Most judges choose the written method, a major factor slowing the judicial

process. Defendants enjoy a presumption of innocence. Either the defense attorney or the prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

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

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

## *Section 2. Respect for Civil Liberties, Including:*

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

The Inter American Press Association (IAPA) reported that during the year, authorities prosecuted seven journalists for the content of their articles. The IAPA added that in the past judges had overturned all such cases upon appeal. All journalists remained free during the investigations, and the IAPA provided legal assistance for these cases.

There were no government restrictions on the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—Jewish community leaders reported that government officials and society generally respected members of their community, which numbered approximately 25 thousand. During the year Jewish leaders noted 78 instances of pro-Nazi graffiti around the capital but reported effective cooperation with the police to investigate these incidents. No arrests were made.

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

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

The law provides that in extreme cases of national emergency an individual may be given the option to leave the country as an alternative to trial or imprisonment, but this option has not been exercised in at least two decades.

*Protection of Refugees.*—The law provides for the granting of refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. During the year the government accepted 121 refugees for resettlement. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

*Elections and Political Participation.*—In October 2004 Tabare Vazquez, of the FA coalition, won a 5-year presidential term in free and fair elections. The FA won 16 of 30 seats in the Senate and 52 of 99 seats in the Senate. President Vazquez took office on March 1. The election ended the domination of the traditional Blanco and Colorado parties and marked the first time in 50 years that any party won an absolute majority in congress.

Women participated actively in the political process and government, although primarily at lower and middle levels. Four of 30 senators and 11 of 99 deputies were women. Three of the 13 cabinet ministers were women. There was one Afro-Uruguayan among the 99 deputies.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year.

Although there is no general public disclosure law, the government requires all government agencies to produce regular public reports. All agencies complied with these reporting requirements.

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

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

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

The law prohibits discrimination based on race, gender, religion, or disability; however, societal discrimination against some groups existed.

*Women.*—Violence against women continued to be a significant problem. The nongovernmental organization (NGO) National Follow-Up Commission-Women for Democracy, Equality and Citizenship reported that a woman died every nine days as a result of rape or domestic violence. The law provides for sentences of six months to two years in prison for a person found guilty of committing an act of violence or of making continued threats to cause bodily injury to persons related emotionally or legally to the perpetrator; however, most of six thousand domestic cases this year were decided in civil court. Judges in these cases often issued restraining orders which were difficult to enforce. Women filed many more complaints than in previous years, but in many instances, courts were unwilling to apply criminal penalties.

The state-owned telephone company provided a free nationwide hot line answered by trained NGO employees for victims of domestic violence. A government office of assistance for victims of domestic violence trained police to resolve complaints of violence against women. A directorate within the Ministry of Interior operated community assistance centers where abuse victims received information and referrals to government and private organizations for aid. Both the Ministry of Interior and NGOs operated shelters in which abused women and their families could seek temporary refuge.

The law criminalizes rape, including spousal rape. During the first 11 months of the year, police received 962 accusations of rape nationwide. None of these claims involved spousal rape, but police had anecdotal evidence that spousal rape occurred frequently. Authorities believed that victims did not report such incidents because they did not understand their rights and out of a fear of social stigma.

Prostitution is legal for persons over the age of 18, and prostitution was visible in major cities and tourist resorts. There were no known reports of police abuse of individuals engaging in prostitution. Trafficking in women for prostitution was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace and punishes it by fines or imprisonment; however, women filed few such complaints, a circumstance attributed to a lack of understanding by women of their rights.

In the judicial system women enjoyed the same rights as men, including rights under family and property law. However, they faced discrimination stemming from traditional attitudes and practices, and no discrimination cases have ever been litigated. There was some segregation by gender in the workforce. Women constituted almost one-half the workforce but tended to be concentrated in lower-paying jobs; their salaries averaged two-thirds those of men, continuing a gradual improvement with respect to pay equity. Women often pursued professional careers but were underrepresented in traditionally male-dominated professions, although approximately 60 percent of students at the public university were women. No effective government programs existed to address economic discrimination against women.

*Children.*—The government was committed to protecting children's rights and welfare, and it regarded the education and health of children as a top priority. The INAU oversees implementation of the government's programs for children. The government provided free compulsory kindergarten, primary, and secondary education, and 95 percent of children completed their primary education. Girls and boys were treated equally. Free education was available through the undergraduate level at the national university.

Health care is free for all citizens.

There is no societal pattern of abuse of children.

Although there were few reliable statistics, polls and arrests indicated that exploitation of children for prostitution was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—While the law prohibits trafficking in minors, there were some cases involving trafficking to, from, and within the country.

Laws criminalize trafficking of minors and provide penalties ranging from 6 months' to 12 years' imprisonment. No laws specifically prohibit trafficking of adults. In past years suspected traffickers have been prosecuted on charges of corruption, conspiracy, fraud, and other felonies. The Ministry of the Interior has primary responsibility for investigating trafficking cases and maintained a database of all trafficking-related activities. Authorities responded promptly to the one trafficking case that came to light during the year.

The country was a source, destination, and transit point for trafficked persons, and internal trafficking was a problem. Trafficking reportedly occurred primarily to and from Argentina and Brazil across poorly controlled land borders. Based on anecdotal evidence, government and NGO experts estimated that approximately 100 individuals were trafficked in or through the country during the year, but there were no reliable estimates on the number of women engaged in prostitution abroad (generally in Europe, Australia, Argentina, and Brazil) or on the proportion that were induced into prostitution by fraud or were subjected to conditions approaching servitude. Some foreign citizens entered the country to engage in prostitution, but irregular border controls limited the collection of such trafficking statistics. Officials believed that trafficking mostly affected women between the ages of 18 and 24.

In January authorities discovered an alien smuggling ring, which had engineered the illegal entry into the country of more than 100 Chinese citizens, 15 of whom were found to have been subjected to debt bondage. All victims were males between the ages of 20 and 38. Under threat of violence, the victims were forced to work 18 to 20 hours per day on a rice farm while waiting to complete their onward travel to the United States.

According to police sources, commercial sexual exploitation of women and children occurred mostly in the states bordering Brazil. There also was concern about possible prostitution rings exploiting children in Montevideo and the resort areas of Punta del Este and Maldonado, where taxi drivers or hotel staff may be involved. There were isolated reports of prostitution by boys. Anecdotal evidence indicated that, in recent years, commercial sexual exploitation of children through prostitution has increased, and minors often engaged in prostitution alongside adults. Police sources indicated that traffickers often perpetrated other transborder crime such as drug smuggling. Children's rights NGOs received reports that minors resorted to prostitution to survive or to assist their families. INAU estimated that 90 percent of minors engaged in prostitution did so to assist their families who allowed or actively promoted the activity.

On January 30, after discovery of the trafficking of Chinese coerced into debt bondage, the Minister of Interior removed the director of immigration, and the deputy director resigned. An investigation of the Immigration Department led to indictments of nine officials, including the former deputy director.

The Interdepartmental Commission for the Prevention and Protection of Children Against Sexual Exploitation continued to work with INAU to protect victims and witnesses but reported a lack of resources to pursue these objectives.

INAU provided funding for a number of NGOs that have programs to assist homeless children and victims of trafficking. A number of NGOs offered treatment for victims of trafficking, and others provided shelter, food, or education.

There were no known programs to prevent trafficking.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities, but the government did not effectively enforce these requirements. Local entities lacked resources to provide accommodations to the disabled. There were no reports of discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. Although the law mandates accessibility for persons with disabilities only to new buildings or public services, the government provided access to a number of existing buildings. The law reserves 4 percent of public sector jobs for persons with disabilities. The country has a generally excellent mental health system and an interest in the rights of persons with mental disabilities.

*National/Racial/Ethnic Minorities.*—The country's Afro-Uruguayan minority, estimated at nearly 6 percent of the population, continued to face societal discrimination. The NGO Afro Mundo reported that a much larger percentage of Afro-Uruguayans worked as unskilled laborers than members of other groups in society despite equivalent levels of education. Afro-Uruguayans were practically unrepresented in the bureaucratic and academic sectors.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law promotes the organization of trade unions and the creation of arbitration bodies, and in December the government passed a law to protect union leaders and negotiators from workplace discrimination. Unions traditionally organized and operated free of government regulation, and during the year unions made inroads into several new professional groups including doctors and the police. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. Unionization was high in the public sector (more than 80 percent) and low in the private sector (approximately 5 percent). In December an umbrella union federation reported that union membership had increased 75 percent since 2003. Labor unions were independent of political party control but traditionally associated more closely with the Broad Front political coalition.

The Ministry of Labor's Collective Bargaining Division investigates antiunion discrimination claims filed by union members. In August workers alleged that a media company dismissed several workers for their pronunion activities. The ministry did not issue an injunction against the dismissals by year's end, but workers continued to pursue the issue through legislative committees.

There are mechanisms for resolving workers' complaints against employers, but unions complained that courts sometimes applied these mechanisms arbitrarily. Unions maintained that employers dismissed organizers for fabricated reasons, thus allowing employers to avoid penalties under the law. The new labor law sought to alleviate this disadvantage.

The law expressly prohibits antiunion discrimination. The law requires employers to reinstate workers fired for union activities and requires employers to pay an indemnity to such workers.

*b. The Right to Organize and Bargain Collectively.*—The constitution provides workers with the right to strike, and workers exercised this right in practice.

Although the government may legally compel workers to work during a strike if they perform an essential service, which, if interrupted, "could cause a grave prejudice or risk, provoking suffering to part or all of the society," the government did not invoke this clause when negotiating with doctors in September.

Collective bargaining between companies and their unions determines a number of private-sector salaries. The executive branch, acting independently, determines public-sector salaries.

All labor legislation fully covers workers employed in the eight special export zones. There were no unions in these zones, but the government did not prohibit their formation.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children against exploitation in the workplace, including a prohibition of forced or compulsory labor, and the Ministry of Labor and Social Security is responsible for enforcing it. Enforcement was difficult due to a lack of resources and because most child labor was in the informal sector (which accounted for 40 percent of total employment in the country). Some children worked as street vendors in the expanding informal sector or in agricultural activities, areas that generally were regulated less strictly and where pay was lower than in the formal sector.

The law prohibits minors under the age of 15 from working, and this was generally enforced in practice. Minors between the ages of 15 and 18 require government permission to work, and such permission is not granted for dangerous, fatiguing, or night work. All workers under age 18 must undergo a physical examination to identify job-related physical harm. Children between age 15 and 18 may not work more than 6 hours per day within a 36-hour workweek and may not work between 10 p.m. and 6 a.m.

Permission to work is only granted to minors who have completed nine years of compulsory education or who remain enrolled in school and are working to complete compulsory education. Controls over salaries and hours for children are stricter than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income.

INAU implements policies to prevent and regulate child labor and provides training on child labor issues. INAU also works closely with the Ministry of Labor and Social Security to investigate complaints of child labor and with the Ministry of Interior to prosecute cases. INAU has 7 specially trained inspectors to handle an estimated 2 thousand inspections per year; the labor ministry has 109 inspectors to investigate all types of labor complaints. Authorities imposed sanctions in approximately 5 percent of the cases.

A program by INAU and an NGO continued to provide food vouchers of \$58 (1,360 pesos) per month to parents who take their children off the streets and send them to school. This amount approximated what a child might earn working on the street, and the program was considered successful.

*e. Acceptable Conditions of Work.*—The Ministry of Labor enforces a legislated minimum monthly wage that covers both the public and private sectors. The ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, set in September at approximately \$109 (2,500 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels; it did not provide a decent standard of living for a worker and family. The vast majority of workers earned more than the minimum wage.

The standard workweek ranged from 44 to 48 hours per week, depending on the industry, and employers were required to give workers a 36-hour block of free time each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours, entitles workers to 20 days of paid vacation after a year of employment, and prohibits compulsory overtime beyond a maximum 50-hour workweek.

The law protects foreign workers and does not discriminate against them, but official protection requires the companies to report the foreign workers as employees. Many native and foreign workers worked informally and thus forfeited certain legal protections.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions without jeopardy to their employment; the government effectively upheld this right, but some workers claimed a subsequent loss of other privileges at work based on their refusal to work in unsafe conditions.

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## VENEZUELA

Venezuela is a constitutional democracy with a population of approximately 25 million. In 2000 voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. While civilian authorities generally maintained control of the security forces, there were instances in which elements of the security forces acted independently of government authority.

Politicization of the judiciary, restrictions on the media, and harassment of the political opposition continued to characterize the human rights situation during the year. The government used the justice system selectively against the political opposition and implementation of a 2004 media law threatened to limit press freedom. The following human rights problems were reported:

- unlawful killings of criminal suspects
- torture and abuse of detainees
- harsh prison conditions including violence and severe overcrowding
- arbitrary arrests and detentions
- corrupt, inefficient, and highly politicized judicial system characterized by trial delays, impunity, and violations of due process
- dismissal or forced retirements of judges for political reasons
- unlawful taking of private property, including failure to make property restitution in such cases
- illegal wiretapping and searches of private homes and businesses
- official intimidation and attacks on the independent media, the political opposition, labor unions, courts, the Catholic Church, missionary groups, and human rights groups
- widespread corruption at all levels of government
- violence and discrimination against women, abuse of children, discrimination against persons with disabilities, and inadequate protection of the rights of indigenous people
- trafficking in persons
- restrictions on the right of association

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents were not accused of committing any politically motivated killings. Security forces committed unlawful killings, including summary executions of criminal suspects, and mistreated persons in custody resulting in deaths.

In August the attorney general's office released statistics implicating security forces in approximately six thousand killings during the last five years. The survey included all security force-related deaths, whether or not misconduct was alleged. The human rights nongovernmental organization (NGO) Venezuelan Program of Action and Education in Human Rights (PROVEA) documented 162 unlawful killings from October 2004 through September. The human rights NGO Committee for the Families of the Victims of February 1989 (COFAVIC) noted the expansion of police death squad activity linked to police participation in crime.

In January Amnesty International reported that two Aragua State police officers allegedly shot and killed Rigoberto Barrios in Guanayen, Aragua State. Rigoberto Barrios was the third member of the Barrios family allegedly killed by police, despite a 2004 Inter-American Court of Human Rights resolution ordering police protection for the family.

In June security forces killed students Leonardo Gonzalez, Erick Montenegro, and Edgar Quintero and injured three others near a Caracas police checkpoint. Autopsy results showed that two of the students were shot multiple times and that all had shots to the head. The minister of interior told the press he had proof that a patrol was ordered to plant guns where the bodies of the students had fallen. The attorney general's office implicated approximately 30 officers in connection with the killings, and the case was under investigation at year's end.

In December a Caracas judge convicted three former police officers as the material authors of the 2004 killing of prosecutor Danilo Anderson (see section 1.e.).

There were no significant developments in the following cases reported in 2004: the January killings of nine men, allegedly by Lara State police officers; and the March killing of Juan Carlos Zembrano in Lagunillas, Zulia State, allegedly by soldiers.

On August 12, a judge convicted 11 Portuguesa State police officers for murders stemming from their participation in the death squad "Exterminio." Exterminio had been accused of up to 100 killings during 2000–01 in Portuguesa State. Human rights NGOs criticized the decision, which absolved the officers of responsibility in 4 of 7 cases, noting that 17 witnesses were killed during the approximately 5-year trial delay.

Unlike in previous years, there were no reports that security forces killed prisoners; however, deaths in prison resulted from other causes (see section 1.c.).

The case of four National Guard officers charged with killing seven prisoners at the Vista Hermosa prison in 2003 had not gone to trial by year's end.

Unlike in the previous year, no deaths resulted from security force intervention in antigovernment demonstrations.

There was one high-profile case of mistreatment of soldiers resulting in death. On March 7, a fire in a "punishment cell" in Cumana, Sucre State injured two soldiers who later died from burns. Authorities detained one soldier and a civilian court was given jurisdiction of the case. The case was pending trial at year's end.

There were no significant developments in the March 2004 death of army Private Roberto Aguilar, who died on a military installation in Zulia State. The deaths in March 2004 of two soldiers allegedly burned in a punishment cell fire in Fuerte Mara, Zulia State remained under investigation and the prosecution postponed the release its final report. In April prosecutors charged an additional soldier with setting the fire.

Prosecutors rarely brought cases against perpetrators of unlawful killings. When prosecutors investigated, they alleged that unsecured crime scenes, poor investigative techniques, and constantly changing or inexperienced personnel ensured that political and human rights abuse cases were delayed indefinitely or had a preordained result. In August the attorney general's office reported that of the more than 6 thousand police officers implicated in killings during the last 5 years, only 88 were convicted. Sentences frequently were light, and convictions often were overturned on appeal. Members of the security forces charged with or convicted of crimes rarely were imprisoned.

Colombian guerillas or other illegal armed groups reportedly killed four ranchers (see section 1.b.).



The press reported several cases of lynching and attempted lynching of suspected criminals. According to public opinion polls, a significant portion of the population tacitly supported vigilante activity to control crime.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Human rights groups noted that police officers sometimes disposed of their victims' bodies to avoid investigations. PROVEA recorded 17 reports of disappearances allegedly involving security forces from October 2004 to September. The NGO Red de Apoyo received six reports of disappearances between January and June and noted that this figure exceeded the total number of disappearance reports it had received in 2004. On July 1, human rights NGOs issued a joint statement expressing concern over the increase in disappearances.

In January the press reported that retired Air Force Colonel Silvino Bustillos, a leader of the *Plaza Francia* military dissidents, requested political asylum in Colombia. Bustillos was reported missing in October 2004 after allegedly being followed by agents of the General Directorate for Military Intelligence (DIM).

There were no significant developments in the case of the Investigative and Criminal Police Corps (CICPC) officers investigated for possibly kidnapping three persons in Tachira State in May 2004.

In June the government acknowledged its responsibility for the forced disappearances of Oscar Blanco Romero, Roberto Hernandez Paz, and Jose Rivas Fernandez following the Vargas floods in 1999. The Inter-American Court of Human Rights accepted the acknowledgement and, in November ruled that the country had violated international conventions on torture and forced disappearance. The court ordered the country to pay reparations and open judicial proceedings on the case. Domestic courts had not convicted any of the security forces allegedly involved in the disappearances by year's end.

The Center of Ranching Studies reported that kidnappers targeting ranchers, farmers, and their families claimed at least 30 victims during the year. Kidnappers killed four of these victims, and unidentified assassins killed at least two more farmers (see section 1.a.). The National Cattle Ranchers Federation and press reports attributed the attacks to criminal gangs, Colombian guerrillas, and other illegal armed groups, such as the Bolivarian Liberation Forces. The National Guard's antiextortion and kidnapping unit rescued at least one victim during the year, but many ranchers paid protection money to illegal armed groups rather than rely on government authorities.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, NGOs, media, and opposition groups accused security forces of continuing to torture and abuse detainees. Abuse most commonly consisted of beatings during arrest or interrogation, but there also were incidents in which the security forces used near-suffocation and other forms of torture.

PROVEA reported that between October 2004 and September, it received 31 complaints of torture and 503 complaints regarding cruel, inhuman, and degrading treatment. From January to June, Red de Apoyo received 10 complaints from alleged torture victims. There were no arrests associated with these cases.

The government did not authorize independent investigation of torture complaints. Human rights groups continued to question the attorney general's ability to oversee neutral investigations as an active member of the president's political party and a former vice president in the government. Groups also asserted that the Institute of Forensic Medicine, part of the CICPC, was unlikely to be impartial in the examinations of cases that involved torture by CICPC members. Few cases of torture resulted in convictions.

Reports of beatings and other humiliating treatment of suspects during arrests were common and involved various law enforcement agencies.

In February the family of General Felipe Rodriguez, who was arrested and held at Military Intelligence Headquarters, alleged that he was subjected to sensory deprivation and psychological torture. In March authorities transferred Rodriguez to a civilian prison despite a court order that he be transferred to the military prison Ramo Verde. Rodriguez was awaiting trial at year's end.

In June family members of Intelligence and Prevention Services (DISIP) officers being investigated for the escape of an alleged narcotics trafficker claimed that prison authorities beat and tortured the officers in an attempt to secure a confession.

In December a Caracas judge convicted three former police officers allegedly tortured by police in 2004 after the three were detained for killing prosecutor Danilo Anderson. The three received prison sentences ranging from 27 to 30 years.

*Prison and Detention Center Conditions.*—Prison conditions were harsh due to scarce resources, poorly trained and corrupt prison staff, and violence by guards and inmates. The prison monitoring NGO Venezuelan Prison Observatory (OVP) esti-

mated that existing prisons could hold approximately 60 percent of the estimated 19 thousand prisoners. Severe overcrowding in some prisons and food and water shortages remained problems.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Most prisoners obtained food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, particularly since convicted murderers and rapists often were held with pretrial detainees or first-time petty offenders. Trafficking in arms and drugs fueled gang-related violence and extortion. Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings (see sections 1.d. and 1.e.).

The government failed to provide adequate prison security. The National Guard and the Ministry of Interior and Justice have responsibility for exterior and interior security, respectively. The OVP estimated that the interior guard force was 10 percent of the required strength. Violence between prison gangs, including shootouts and riots, was common. From January through September, OVP recorded 304 deaths and 517 injuries in the prisons. Most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsanitary and unsafe conditions. Prisoners also died as a consequence of poor diet and inadequate medical care.

In January more than 10 thousand prisoners held a national hunger strike to protest prison conditions and the lack of action on their cases.

Security forces and law enforcement authorities often imprisoned minors together with adults, even though separate facilities existed for juveniles. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—While the law prohibits arbitrary arrest and detention, security forces continued to arrest and detain citizens arbitrarily.

*Role of the Police and Security Apparatus.*—The National Guard, a branch of the military, is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counter narcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior and Justice controls the CICPC, which conducts most criminal investigations, and the DISIP, which collects intelligence and is responsible for investigating cases of corruption, subversion, and arms trafficking. Mayors and governors oversee local and state police forces. Corruption was a major problem among all police forces, whose members were poorly paid and trained. Impunity for corruption, brutality, and other acts of violence were major problems. Some local police forces offered human rights training for their personnel.

*Arrest and Detention.*—Persons were not always apprehended openly with warrants from judicial authorities. Detainees must be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime, nor for longer than two years, except in certain circumstances, as when the defendant is responsible for the delay in the proceedings.

There was a functioning system of bail, but March penal code reforms eliminated bail for certain crimes (see section 2.a.). Bail also may be denied if the person was apprehended in the act of committing a crime or a judge determines that there is a danger that the accused may flee or impede the investigation. Detainees were provided access to counsel and family members.

PROVEA documented 2,731 arbitrary detentions between October 2004 and September and criticized the security forces for a systematic practice of illegal arrests to combat crime.

OVP reported that as of September, 9,653 persons (51 percent of prisoners) were in pretrial detention. Trials were delayed due to many factors, including the limited power of judges to compel authorities to transport prisoners to court.

*e. Denial of Fair Public Trial.*—While the law provides for an independent judiciary, it was increasingly less so. The judiciary also was highly inefficient, sometimes corrupt, and subject to political influence, particularly from the attorney general's office, which in turn was pressured by the executive branch.

The judicial sector consists of the Supreme Tribunal of Justice and lower courts, the attorney general's office, and the Ministry of Interior and Justice. The Supreme

Tribunal of Justice is the country's highest court and directly administers the lower courts through the Executive Directorate of the Judiciary.

According to government statistics, provisional and temporary judges constituted an estimated 50 percent of the approximately 1,900 judges. The Supreme Tribunal of Justice's Judicial Committee may hire and fire temporary judges without cause and without explanation, and it did so. Provisional judges legally have the same rights as permanent judges. In May the Supreme Tribunal of Justice's Judicial Committee removed approximately 50 judges (some tenured and some provisional) in several states and Caracas, accusing them of complicity with drug traffickers and other irregularities. In May the Supreme Tribunal of Justice began administering competitive exams to provisional judges as a basis for granting tenure. As of December approximately 480 judges had been granted tenure.

The law provides that the Moral Council (attorney general, human rights ombudsman, and comptroller general) may suspend judges and allows the National Assembly to revoke the appointment of supreme tribunal of justice judges by a simple majority vote. Human Rights Watch (HRW) noted that the law threatens the independence of the judiciary by subjecting it to political control.

Lower court judges oversee pretrial motions, including prosecution and defense motions, prior to criminal cases going to trial judges. Executive judges oversee the application of sentences. Appeals courts, consisting of three-judge panels, review lower court decisions. The attorney general oversees the prosecutors who investigate crimes and bring charges against criminal suspects.

Corruption and susceptibility to political pressure were widespread, particularly from the attorney general's office, which in turn was responding to pressure from the executive branch. In February the Supreme Tribunal of Justice suspended three judges for lifting travel restrictions prohibiting persons investigated for involvement in the attempted removal of President Chavez in 2002. The magistrates who assumed the duties of the suspended judges subsequently reversed the decision to lift the ban. In March the Constitutional Chamber of the Supreme Tribunal of Justice annulled a 2002 supreme tribunal of justice ruling that the events of April 2002 constituted a power vacuum and not a coup. The 2002 ruling had previously prevented the prosecution of four high-ranking military officers accused of military rebellion.

Human rights NGOs and judicial observers criticized the attorney general's office for corruption and the politicization of prosecutors. In June judicial NGO Foro Penal reported that a small group of prosecutors was given the lead on nearly all high-profile prosecutions. In July the Andean Commission of Jurists criticized the attorney general's use of his office to investigate and prosecute opposition figures on political grounds.

On April 14, the Penal Chamber of the Supreme Tribunal of Justice revoked the October 2004 ruling throwing out all criminal charges against National Guard General Carlos Alfonzo Martinez and ordered the case reheard. On July 12, an appeals court upheld the original August 2004 conviction of General Martinez to five years probation for violating security zones. The court found Martinez not guilty of instigating rebellion or abandoning his command.

In May the Penal Chamber of the Supreme Tribunal of Justice revoked the October 2004 appeals court ruling dismissing the case against Baruta mayor Henrique Capriles Radonski on charges relating to a violent demonstration in front of the Cuban Embassy in 2002 and ordered the case reheard.

In November the attorney general's office issued arrest warrants for four alleged "intellectual authors" of the November 2004 killing of prosecutor Danilo Anderson. Businessman Nelson Mezerhane and 2 others were held for 46 days in DISIP custody for allegedly masterminding the killing based on the testimony of an alleged former Colombian paramilitary member whose credibility was questioned by various press reports. In December a Caracas judge convicted three former police officers as the material authors of the killing.

In May a judge ruled that General Felipe Rodriguez must stand trial on charges of rebellion and conspiracy for his alleged role in the 2003 bombings of the Spanish and Colombian consulates in Caracas and for his role in a military protest at Altamira (see section 1.c.).

On March 14, prosecutors accused former Miranda State governor and Democratic Coordinating Committee leader Enrique Mendoza of conspiracy and rebellion for his alleged involvement in the closure of a television station in 2002. Mendoza was not subject to any court-ordered restrictions, and the court had yet to rule whether he would stand trial by year's end.

In April prosecutors opened an investigation into Carlos Ayala Corao, President of the Andean Commission of Jurists and former president of the Inter-American Commission on Human Rights, for conspiracy related to his alleged participation in the 2002 coup. Human rights groups criticized the charge as an example of political

prosecution without legal foundation. In October the prosecution did not cite Ayala as one of those formally charged in the case, thereby discontinuing the investigation.

In November the controller general suspended from political activity Leopoldo Lopez, an opposition party mayor of a Caracas municipality, for a period of six years after he leaves office in 2008. The controller alleged that Lopez mishandled municipal funds in 2002. Lopez claimed the move was unconstitutional and part of a strategy by the Chavez government to eliminate the political opposition.

*Trial Procedures.*—The law provides for open, public, and fair trials with oral proceedings. Defendants are innocent until proven guilty. Public defenders are provided for indigent defendants, but there continued to be a shortage of public defenders. Defendants and plaintiffs have the right of appeal.

Trial delays were common. A professional judge and two “lay judges” try serious cases; a single judge may hear serious cases if requested by the defendant or victim, or if attempts to appoint lay judges have failed. Difficulty in finding persons willing to serve as lay judges also resulted in delays.

The law provides that trials for military personnel charged with human rights abuses be held in civilian rather than military courts; the provision does not apply to cases that predate the 1999 constitution. Executive courts in the military justice system mirrored the civilian courts.

Human rights NGOs continued to express concern that the supreme tribunal of justice’s selection of military judges from a list of candidates provided by the minister of defense linked the careers of military judges to the high command.

*Political Prisoners.*—Retired Army General Francisco Uson remained imprisoned at the Ramo Verde military prison for “defaming” the army, despite being retired and not subject to military jurisdiction. In January the military court upheld on appeal the October 2004 decision which found Uson guilty of insulting the army and sentenced him to five and one half years in prison. In July the Supreme Tribunal of Justice declared Uson’s attempt to annul the decision inadmissible.

*Property Restitution.*—On September 29, Supreme Tribunal of Justice President Omar Mora stated that land could be occupied by the state before a judicial review of ownership claims. The government installed state cooperatives on properties still under dispute and on properties whose owners had won court decisions. The Supreme Tribunal of Justice ordered squatters to leave properties, but the government did not enforce its decisions.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the law prohibits such actions, security forces continued to infringe on citizens’ privacy rights by searching homes without warrants, for example during anticrime sweeps in poor neighborhoods. There were reports of illegal wiretapping and invasion of privacy by the security forces.

Throughout the country, witnesses to abuses by security forces reported instances in which their family members later were harassed, threatened, or killed (see section 1.a.).

In April President Chavez called on government officials to stop using the “Tascon List,” names and national identification numbers of all persons who had signed the recall petitions which MVR Deputy Luis Tascon had placed on his Web page; however, the Tascon List reportedly was incorporated into a computer program dubbed “Maisanta,” which also included information about whether voters benefited from the government’s missions. The information was used to identify for retaliation those who signed the recall petition; some of those identified lost their government jobs, were denied government services, such as passports and identity cards, or were denied access to employment.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the combination of new laws governing libel and broadcast media content, legal harassment, and physical intimidation resulted in limitations on these freedoms and a climate of self-censorship.

Amendments to the penal code in March make insulting the president punishable by 6 to 30 months in prison, with lesser penalties for insulting lower ranking officials. The defamation law was strengthened such that comments exposing another person to public contempt or hatred are subject to a 1- to 3-year prison sentence and a fine. Inaccurate reporting which disturbs the public peace is punishable with a prison sentence of two to five years. The requirement that media disseminate only “true” information was undefined and open to politically motivated interpretation.

International organizations, such as the Inter-American Press Association (IAPA) and the International Association of Broadcasting (IAB), and domestic journalists charged the government with creating a climate of self-censorship; in March the IAB

denounced to the Inter-American Human Rights Commission the “intimidation, pressure, limitations, and restrictions” placed on the media.

Although print and electronic media were independent, President Chavez repeatedly singled out media owners and editors, charging that the media provoked political unrest and accusing them of treason. The country remained on the International Press Institute’s watch list of countries with a growing tendency toward suppression or restriction of press freedom. Reporters without Borders noted similar concerns.

The law requires that practicing journalists have journalism degrees and be members of the National College of Journalists and prescribes 3- to 6-month jail terms for those who practice journalism illegally. These requirements were waived for foreigners and for opinion columnists.

Assaults against the media declined compared with 2004. From June through August, the National Union of Press Workers recorded 11 physical and verbal attacks against the press. The National Guard, the DIM, the DISIP, and local police also harassed and attacked journalists. Government sympathizers attacked and threatened private media.

On January 14, a mob attacked Punta de Mata radio host Daniel Ortiz Milan and threatened him with revolutionary justice after Ortiz commented in his program on a local election dispute. Police rescued Ortiz from the mob.

On June 13, masked assailants attacked and firebombed the newspaper *Frontera* in Merida, in retaliation for a report on the death of a student during disturbances between pro and antigovernment students at the University of the Andes. The Committee to Protect Journalists reported that the newspaper’s management did not file a police complaint for fear that a government investigation would blame *Frontera*’s report for provoking the attack.

On June 29, four men believed to be DIM agents beat and briefly detained a photographer for the newspaper *El Nuevo Pais* after he attempted to take photographs of a traffic accident involving the head of the government’s land reform office. The photographer reported that authorities seized his camera and removed its memory disc.

On September 19, National Guard officers ransacked the offices of Caracas daily *Ultimas Noticias* and seized photographs.

On November 5, the attorney general’s office accused journalist Patricia Poleo of helping to mastermind the November 2004 killing of prosecutor Danilo Anderson. IAPA expressed concern over the accusation and questioned whether the prosecution had targeted Poleo because her reports often investigated government corruption. In January security forces searched her residence, allegedly looking for evidence in the Anderson case; Poleo accused the attorney general of attempting to hide the truth of Anderson’s killing.

The 2004 assassination of radio personality, opinion columnist, and activist Mauro Marciano Rames in Maturin remained unsolved.

The president preempted broadcasting on the nation’s airwaves to present government programs. Independent media observers criticized the state media for extreme progovernment politicization.

While the law permits the president to suspend telecommunications broadcasts, it was not invoked during the year.

Media analysts, journalists, and other observers alleged that the government used criminal defamation and libel laws to intimidate or harass the media. The attorney general’s office charged *El Universal* with criminal defamation for a July 25 editorial concerning the judicial branch. National and international press organizations denounced the charge, and the Supreme Tribunal of Justice dismissed the case.

In September National Guard officers searched without a warrant the offices of TV Guyana looking for a videotape of a speech by a labor leader supporting recent labor actions in Ciudad Guyana. The station owner ordered his staff not to turn over the tape until a legal order had been presented.

In November police raided the offices of the newspaper *La Razon* searching for the name and address of a columnist published in the paper under a pseudonym.

The civil case continued against newspaper *El Impulso* editor Jose Ocanto, charged with libel for accusing a military officer of corruption in 2004.

Some commercial radio stations complained that broadcasting frequencies for community radios were not allocated in accordance with broadcast regulations. According to the National Venezuelan Radio Broadcasting Chamber, most of these community radio stations neither received broadcasting licenses nor followed regulations and interfered with the broadcasts of licensed stations. The government reportedly funded the community stations, whose broadcasting was progovernment.

The law permits the government to order national broadcasts *cadenas* requiring all broadcast media to preempt scheduled programming and transmit the govern-

ment's entire message. Domestic and international observers to the December national assembly elections questioned the government's use of this provision during the election. According to private media sources, there were approximately 171 *cadenas* from January through September.

In October the National Integrated Service of Customs and Tax Administration of Venezuela (SENIAT) temporarily closed several newspaper and radio stations in the states of Bolívar and Lara. Domestic journalists criticized the move as an attempt to restrict press freedom. On October 12, the press reported that the newspapers *La Nueva Prensa* and *El Expreso* were closed, along with radio stations Radio Alegria and Radio Bolivariana, and then allowed to reopen a few days after the shutdown. On October 25, the proopposition newspaper *El Impulso* was closed for 24 hours and fined. *El Impulso* linked the action to its recent comments to the IAPA criticizing government moves against press freedom. The government responded that SENIAT had intervened for tax enforcement reasons.

The government denied private media equal access to many official events, and, in cases when private media had access to government facilities, they often did not have access to officials and information. For example, only the government radio and television stations were authorized to have reporters at the presidential palace. State-controlled television and radio stations and many foreign news reporters continued to have full access to official events.

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

*b. Freedom of Peaceful Assembly and Association.*

*Freedom of Assembly.*—The law provides for freedom of assembly, and the government generally respected this right in practice. PROVEA noted that at least 49 injuries resulted from security force interventions in peaceful demonstrations, which marked a significant decrease from the previous year.

Human rights groups criticized the March penal code revision for the strict penalties it imposes on some forms of peaceful demonstration. The new law outlaws pot-banging protests often identified with opponents of the government and punishes street closures with up to 8-year prison terms. In June human rights NGOs submitted a motion to declare the revision unconstitutional, but the Constitutional Chamber of the Supreme Tribunal of Justice had not made a decision by year's end. In November the attorney general's office submitted a separate motion to declare the penal code revision unconstitutional.

Government supporters sometimes disrupted marches and rallies. Supporters and opponents of the government demonstrated in the capital and other cities during the year, and several demonstrations resulted in injuries after the government failed to protect peaceful demonstrators.

On July 12, government supporters repeatedly accosted demonstrators protesting the June 27 police killing of three students (see section 1.a.). Security forces failed to provide protection, and by the time the march reached the National Assembly, fewer than half the original demonstrators remained.

On August 27, government supporters confronted an opposition march, throwing rocks, bottles and other objects at marchers as they made their way to the National Assembly. The metropolitan fire chief reported six injuries, including one hospitalization. Security forces failed to intervene effectively to protect demonstrators.

The case against a National Guard officer arrested in November 2004 for his role in the violent confrontation between opposition demonstrators and National Guard troops in February 2004 had not gone to trial by year's end. In December a court sentenced 3 gunmen accused of killing a demonstrator in August 2004 to 11 years in prison.

*Freedom of Association.*—While the law provides for freedom of association, the government only partially respected this right. While professional and academic associations indicated they generally operated without interference, they complained that the National Electoral Council (CNE) repeatedly interfered with their attempts to hold internal elections. A 2000 Supreme Tribunal of Justice ruling declared that groups belonging to civil society could not receive money from foreign governments or groups influenced by foreign governments, engage in political activism, or be run by members of the military or religious groups. The government brought charges of conspiracy against the NGO SUMATE based in part on the fact that the organization received financing from abroad (see section 4).

*c. Freedom of Religion.*—The law provides for freedom of religion, on the condition that its practice does not violate public morality, decency, or the public order, and the government generally respected this right in practice. There were efforts by the government to limit the influence of churches in certain social and political areas.

Foreign missionaries require a special visa to enter the country. For several weeks in August the Directorate of Justice and Religion froze the issuance of religious

visas to missionaries. In October President Chavez ordered the expulsion of the missionary group New Tribes Missions based on government claims of interference and damage to the indigenous population. There were no expulsions as of year's end.

*Societal Abuses and Discrimination.*—In July members of the Catholic Church hierarchy criticized government actions directed against civil society and the press. In response the president denounced a Catholic cardinal as a devil and a hypocrite and church leaders as “coupsters.”

The small Jewish community was active, and there were few reports of anti-Semitic incidents. However the government and its supporters occasionally demonstrated anti-Semitism. In December the international Jewish rights group, the Simon Wiesenthal Center, denounced comments made by President Chavez as anti-Semitic and demanded an apology.

In October, 219 Mormon missionaries left the country for security reasons and due to difficulties obtaining religious visas. There were no developments in the investigation into explosives detonated outside two Mormon churches in May 2004.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the government generally respected them in practice, although there were numerous reports that persons were denied passports and other official documents by government agencies for having signed the recall referendum. There were also reports that those whose identification numbers appeared on a list of petition signers had bribed to receive their documents.

The law prohibits forced exile, and it was not used.

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

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

During 2004 and the beginning of the year, the government implemented the Regularization and Naturalization Decree, which sought to resolve the status of foreigners, primarily Colombians, regarded as “irregular.” Approximately 400 thousand persons were documented, but because the program was carried out primarily in urban centers, it did not reach most dispersed populations of UNHCR concern living in remote border areas. UNHCR assumed that many Colombians chose to be naturalized rather than apply for refugee status.

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

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

*Elections and Political Participation.*—In 2000 voters elected Hugo Chavez as president in elections that observers judged to be generally free and fair. In August 2004 President Chavez defeated a recall referendum organized by opposition groups. While irregularities and a progovernment bias characterized the process leading to the referendum, the Organization of American States (OAS) and the Carter Center stated that the official results were compatible with their own quick count and “reflected the will of the electorate.”

International observers, including the OAS and EU, noted that CNE bias and lack of transparency contributed to record-low voter turnout in the December legislative elections in which pro-Chavez parties won all 167 National Assembly seats. All major opposition parties withdrew from the election before the vote, following the revelation that it was possible to determine how individuals voted. The opposition and international observers criticized the CNE for releasing a limited voter registry and government abuse of state resources for its campaign. While the CNE estimated that abstention reached 75 percent, independent pollsters and opposition and NGO leaders estimated the figure to be as high as 80 percent.

In its preliminary assessment, European Union (EU) observers noted that many citizens lacked confidence in electoral authority independence. The observers' initial conclusions also highlighted voter fears that the secrecy of their vote would be violated as a result of the Maisanta Program. Opposition members noted that the

Maisanta Program and its predecessor, the Tascon List, were strategies to intimidate voters (see section 1.f.).

There were 34 women in the 165-seat assembly, 3 women in the 21-member cabinet, and 9 women among the 32 justices on the Supreme Tribunal of Justice.

Indigenous people traditionally were not integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The constitution reserves three seats in the National Assembly for indigenous people, which were filled in the 2000 election. There were no indigenous members in the cabinet and none of the national assembly vice presidents was an indigenous person.

*Government Corruption and Transparency.*—There was a perception of widespread corruption at all levels of the government. Journalists reported several cases of apparent corruption implicating high-level government officials, but none were investigated. Officials acknowledged that the National Office of Identification and Immigration, the agency responsible for issuing identity cards and passports, was corrupt.

The law provides for citizens' access to government information and forbids censoring. Human rights groups reported that the government routinely ignored this requirement and did not make information available.

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

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat responsive to their views. Major domestic human rights NGOs that operated independently from the government included SUMATE, COFAVIC, PROVEA, Red de Apoyo, and the Venezuelan Prison Observatory.

In July a Caracas court ruled that SUMATE leaders Maria Corina Machado, Alejandro Plaz, Luis Enrique Palacios, and Ricardo Estevez would stand trial for conspiracy to destroy the country's republican form of government. The charges were based on the group's acceptance of funds from a foreign source. Domestic and international human rights groups criticized the ruling. The trial start was delayed until 2006, and the accused were free pending trial at year's end.

Several human rights NGOs received threats and intimidation by government representatives and supporters.

In January Venezuelan Prison Observatory Director Humberto Prado received telephone threats after he announced his solidarity with prisoners engaged in a national hunger strike (see section 1.c.).

On March 4, the Metropolitan Police withdrew the IACHR-ordered bodyguards it had provided for COFAVIC director Liliana Ortega. The IACHR passed a resolution on June 14 directing the government to reinstitute Ortega's police protection. In October police restored Ortega's protection after she defended the IACHR order before a local court.

During the year HRW, the Center for Justice and International Law, and other human rights groups criticized the government's prosecution of well-known human rights lawyer Carlos Ayala Corao on charges of conspiracy (see section 1.e.). The government cited the criticisms as evidence that it was under international attack because of its case against Ayala.

In August a group of prominent domestic human rights NGOs issued a joint statement requesting that the government investigate the threats against human rights workers and adopt measures to guarantee their security.

In November the interior minister responded to criticisms made by Venezuelan Prison Observatory Director Humberto Prado with a personal attack on Prado's character. Minister Chacon told the press that he had concerns about Prado's alleged mistreatment of inmates during his tenure as a prison director in the late 1990s. Prado stated that he was unaware of the complaints and publicly questioned why he had not been previously informed of their existence.

The government cooperated with international governmental organizations and permitted visits by OAS representatives. While the CNE negotiated with the OAS and EU to provide observers for the December 4 National Assembly elections, the government publicly condemned their preliminary observation reports.

Although the ombudsman is responsible for ensuring that citizens' rights are protected in a conflict with the state, human rights NGOs claimed that the ombudsman's office was not independent and rarely acted on public interest cases. PROVEA criticized the ombudsman's office for remaining silent on the unconstitutionality of the March penal code reform.



The national assembly's Sub-Commission on Human Rights played an insignificant role in the national debate on human rights.

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

Although the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, and indigenous people were problems.

*Women.*—The law prohibits domestic violence and violators faced penalties of 6 to 18 months in prison. Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence. During the year the Center for Women's Studies reported that in 2004 there were 3,900 cases of domestic violence reported, and that 1 woman in Caracas died every 10 days from domestic violence. The law requires police to report domestic violence and obligates hospital personnel to notify the authorities when they admit patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence, and the courts rarely prosecuted those accused of such abuse. Women generally were unaware of legal remedies and had little access to them. The government sought to combat domestic violence through a public awareness campaign and a national victim assistance hot line.

In December 2004 a judge absolved the alleged torturer of Linda Loaiza, claiming the public ministry had not provided sufficient evidence to prove culpability. The decision was under appeal at year's end.

The law prohibits rape, including spousal rape, but it remained a problem. Rape is punishable with prison terms of 8 to 14 years, although cases often were not reported to the police. An adult man guilty of raping an adult female acquaintance may avoid punishment if he marries the victim before sentencing.

Prostitution is legal. While there was no government information on the extent of prostitution, local antitrafficking NGO Association of Women for Welfare and Mutual Help noted that prostitution was a serious problem, particularly in Caracas and domestic tourist destinations.

Sexual harassment is illegal and punishable with a prison sentence of 6 to 18 months. Sexual harassment was common in the workplace but rarely reported. There were no reported cases of sexual harassment during the year.

Women and men are legally equal in marriage, and the law provides for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the CTV, these regulations were enforced in the formal sector, although women reportedly earned 30 percent less than men on average. The National Institute for Women, a government agency, worked to protect women's rights.

The National Institute for Women, a government agency, provided approximately 16,412 loans totaling \$8 million (17.2 million bolivars) to women of all ages to establish businesses. Sixty percent of loan recipients were heads of households.

*Children.*—The government was committed to children's rights and welfare. The law provides for universal, compulsory, and free education up to the university-preparatory level; however, the UN Children's Fund (UNICEF) reported that in 2004 an estimated 45 percent of boys and 35 percent of girls left school before the ninth grade. Many children of African and indigenous descent had no access to the education system.

There were numerous government health care programs provided for boys and girls on the basis of equal access.

Reports of child abuse were rare due to a fear of entanglement with the authorities and ingrained societal attitudes regarding family privacy. According to UNICEF and NGOs working with children and women, child abuse, including incest, often occurred at home. Although the judicial system acted to remove children from abusive households, public facilities for such children were inadequate and had poorly trained staff. The human rights NGO For the Rights of Children and Adolescents (CECODAP) reported that the government created a Ministry of Popular Participation and Social Development to exclusively manage children's issues.

CECODAP estimated that approximately 15 thousand children lived on the street. Authorities in Caracas and several other jurisdictions imposed curfews on unsupervised minors to cope with the phenomenon of street children. Because reform institutions were filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers (see section 1.c.).

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. There

is no implementing law specifically for prosecution of trafficking in persons. Trafficking may be prosecuted under laws against forced disappearance and kidnapping with penalties of 2 to 6 years' imprisonment, and under a law to protect children, which provides for a penalty of 1 to 10 months' income for trafficking in children.

Government efforts to combat trafficking are the responsibility of the public prosecutor's Family Protection Directorate, the National Institutes for Women and Minors, and the Ministry of Interior and Justice's Crime Prevention Unit. Enforcement efforts generally were limited. In June the government arrested one person for trafficking in persons after the Peruvian Embassy in Caracas informed the CICPC that two minors and one adolescent had been lured to the country with false offers of employment. Authorities placed the two minors in juvenile homes, where they were awaiting repatriation at year's end. The whereabouts of the third victim was unknown.

The government assisted with international investigations of trafficking. In June, 13 women reportedly were trafficked to Spain for sexual exploitation. Spanish authorities detained 1 of the 13 women for traveling on false documents and returned her to Venezuela. The whereabouts of the other 12 women were unknown at year's end. One of two suspects in the case was in prison awaiting trial at year's end.

In July authorities assisted in the repatriation of three Colombian victims of trafficking.

There were reports that the country was a source, destination, and transit country for trafficked men, women, and children. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent passports, identity cards, and birth certificates could be obtained created favorable conditions for trafficking. No overall statistics on trafficking were available from government or NGO sources.

Human rights NGOs received complaints that women were trafficked to Europe for purposes of prostitution. Subgroups particularly at risk included women from poor areas. Undocumented or fraudulently documented Ecuadorian and Chinese nationals transited the country and reportedly were forced to work off the cost of their transportation in conditions of servitude.

Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were involved in trafficking activities.

In January the Ministry of Foreign Affairs hosted the OAS and the International Organization for Migration for antitrafficking workshops to raise public awareness of the problem.

The government provided trafficking victims with psychological and physical examinations. Several NGOs complained that they lacked government support and cooperation to assist victims and prevent future cases of human trafficking.

Efforts to prevent trafficking were inadequate. There were small specially trained CICPC sections devoted to prostitution and the protection of women.

*Persons with Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, and the provision of other state services. During the year the public defender's office reported that in 2004 it had received 53 petitions on behalf of persons with disabilities related to discrimination in health, social security, education, and workers' rights. Persons with disabilities had minimal access to public transportation, and ramps practically were nonexistent, even in government buildings. The law requires that all newly constructed or renovated public parks and buildings provide access and prohibits discrimination in employment practices and in the provision of public services; however, the government had not made a significant effort to implement the law, inform the public of it, or to combat societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental disabilities.

*Indigenous People.*—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population suffered from inattention to and violation of their rights. There were approximately 316 thousand indigenous people in 27 ethnic groups, many of whom were isolated from modern civilization and lacked access to basic health and educational facilities. Their communities suffered from high rates of disease. The government included indigenous people in its literacy campaigns, in some cases teaching them to read and write in their own languages as well as in Spanish.

The law creates three seats in the National Assembly for indigenous deputies and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of the interests of indigenous people when making decisions af-

fecting their lands, cultures, traditions, or the allocation of natural resources. Few indigenous people held title to their land, and many did not want to do so because most indigenous groups rejected the concept of individual property. Instead, they called on the government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—While the law provides that all private and public sector workers (except members of the armed forces) have the right to form and join unions of their choice, the government continued to violate these rights. Approximately 10 to 12 percent of the 12 million-person labor force was unionized.

The CNE has the authority to administer internal elections of labor confederations, which contravenes International Labor Organization (ILO) Conventions 87 and 98. In December 2004 the CNE issued regulations governing internal elections that many labor leaders claimed violated freedom of association. Furthermore, the CNE failed to certify the results of elections held during the year by some 300 unions and federations under these new regulations. Labor leaders complained that the CNE also failed to give permission to hold elections to hundreds of unions and federations.

In January the CNE passed a resolution annulling the CTV's 2001 election results. In addition the government refused to appoint the CTV secretary general as labor's representative at the ILO annual meeting. The ILO called upon the government to recognize the CTV's elected leadership.

The Ministry of Labor continued to deny registration to UNAPETROL, a union composed of oil workers who were later fired for participating in the December 2002 to February 2003 national strike (see section 6.b.).

*b. The Right to Organize and Bargain Collectively.*—The law provides that all public and private sector workers have the right to conduct their activities without interference and protects collective bargaining. The law stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO continued to object to this provision and requested that the government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members."

The government continued to show preference in collective bargaining agreements toward sympathetic unions and fostered the creation of parallel unions. CTV leaders claimed that the Ministry of Labor routinely rejected collective bargaining agreements negotiated by CTV affiliates on administrative grounds. CTV leaders further claimed that, in those sectors or firms where contracts were rejected, ministry officials facilitated the rapid formation of parallel unions, which legally could force a vote among workers over which union would represent them. The CTV also complained that the ministry usually designated the parallel union as the one authorized to negotiate the contract.

Although the law recognizes the right of all public and private sector workers to strike in accordance with conditions established by labor law, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers were not permitted during legal strikes, and the president may order public or private sector strikers back to work and submit their disputes to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."

By June the government resolved approximately 25 percent of the cases involving 19 thousand PDVSA employees who were fired during and in the aftermath of the December 2002 to February 2003 national strike. The government continued to deny the former workers severance and pension benefits as well as access to company housing, schools, and medical clinics.

In December authorities tried and convicted CTV President Carlos Ortega of civil rebellion and incitement to commit a crime in connection with his role in the December 2002 to February 2003 national strike, despite a June 2004 ILO ruling that the strike was legitimate. Ortega, who was arrested in February after nearly 2 years in exile and hiding, was sentenced to nearly 16 years in prison. The CTV and some human rights activists denounced Ortega's trial for lack of due process and declared Ortega to be a political prisoner. Ortega was expected to appeal the sentence to the Supreme Tribunal of Justice.

Labor law and practice are the same in the sole export processing zone of Punto Fijo, Falcon State, as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, including by children, there were reports of trafficking in children for employment purposes (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy but less so in the informal sector. The Foundation for Training in the Investigation of Human Resources estimated in 2004 that there were 1.6 million children working in various sectors of the labor market, including 206 thousand involved in prostitution, panhandling, or drug trafficking.

The law permits children between the ages of 12 and 14 to work only if the National Institute for Minors or the Ministry of Labor grants special permission; children between the ages of 14 and 16 may not work without the permission of their legal guardians. Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. Minors may not work in mines or smelting factories; in occupations that risk life or health or could damage intellectual or moral development; or in public spectacles. The law prohibits inducing the prostitution and corruption of minors. Penalties range from 3 to 18 months in prison and up to 4 years in prison if the minor is younger than 12 years old.

The Ministry of Education, Culture, and Sports ran educational programs to reincorporate school dropouts and adults into the educational system; however, there was no independent accounting of the effectiveness of the programs. The government also provided free adult educational and technical training through the *Barrio Adentro* Mission program.

*e. Acceptable Conditions of Work.*—Minimum wage rates are adjusted annually by administrative decree, which the legislature may suspend or ratify but may not change. In May the government raised the monthly minimum wage by 26 percent to \$188 (405 thousand bolivars). The national minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor enforced minimum wage rates effectively in the formal sector, but approximately 50 percent of the population worked in the informal sector where labor laws and protections generally were not enforced.

The law stipulates that the work week may not exceed 44 hours. Managers are prohibited from obligating employees to work additional time, and workers have the right to weekly time away from work. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The ministry effectively enforced these standards in the formal sector.

While the constitution provides for secure, hygienic, and adequate working conditions, authorities have not implemented the Health and Safety Law. The law states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury. Workplaces must maintain “sufficient protection for health and life against sickness and accidents,” and penalties range from one-quarter to twice the minimum monthly salary for first infractions. In practice ministry inspectors seldom closed unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

## APPENDIXES

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### APPENDIX A.—NOTES ON PREPARATION OF THE COUNTRY REPORTS AND EXPLANATORY NOTES

The annual *Country Reports on Human Rights Practices* are based on information available from a wide variety of sources, including U.S. and foreign government officials, victims of human rights abuse, academic and congressional studies, and reports from the press, international organizations, and nongovernmental organizations (NGOs) concerned with human rights. We find particularly helpful, and make reference in the reports, to the role of NGOs, ranging from groups within a single country to those that concern themselves with human rights worldwide. While much of the information that we use is already public, information on particular abuses frequently cannot be attributed, for obvious reasons, to specific sources.

By law, the Secretary of State must submit the *Country Reports* to Congress by February 25. The *Country Reports* cover respect for human rights in foreign countries and territories worldwide; they do not purport to assess any human rights implications of actions by the United States Government or its representatives. To comply with this requirement, we provide guidance to U.S. diplomatic missions in July for submission of draft reports in September and October, which we update at year's end as necessary. Other offices in the Department of State provide contributions, and the Bureau of Democracy, Human Rights and Labor prepares a final draft. Due to the submission deadline, the report may not reflect developments that became known only after the end of the year. We make every effort to include references to major events or significant changes in trends.

We have attempted to make the reports as comprehensive, objective and uniform as possible in both scope and quality of coverage. We have paid particular attention to attaining a high standard of consistency in the reports despite the multiplicity of sources and the obvious problems associated with varying degrees of access to information, structural differences in political, legal, and social systems, and differing trends in world opinion regarding human rights practices in specific countries.

Evaluating the credibility of reports of human rights abuses is often difficult. With the exception of some terrorist organizations, most opposition groups and certainly most governments deny that they commit human rights abuses and sometimes go to great lengths to conceal any evidence of such acts. There are often few eyewitnesses to specific abuses, and they frequently are intimidated or otherwise prevented from reporting what they know. On the other hand, individuals and groups opposed to a government sometimes have powerful incentives to exaggerate or fabricate abuses, and some governments similarly distort or exaggerate abuses attributed to opposition groups. We have made every effort to identify those groups (for example, government forces or terrorists) or individuals that are believed, based on all the evidence available, to have committed human rights or other abuses. Where credible evidence is lacking, we have tried to indicate why it is not available. Many governments that profess to oppose human rights abuses in fact secretly order or tacitly condone them or simply lack the will or the ability to control those responsible for them. Consequently, in judging a government's policy, the reports look beyond statements of policy or intent and examine what a government has done to prevent human rights abuses, including the extent to which it investigates, brings to trial, and appropriately punishes those who commit such abuses.

To increase uniformity, each country report begins with a brief overview that includes a description of the country's political structure and the extent to which civilian authorities control security agencies. The overview summarizes human rights developments during the calendar year, identifying specific areas where abuses, problems, and notable improvements occurred.

We have continued the effort from previous years to cover human rights problems affecting women, children, persons with disabilities, and indigenous people in the reports. The appropriate section of each country report discusses any abuses that

are targeted specifically against women (for example, rape or other violence perpetrated by governmental or organized opposition forces, or discriminatory laws or regulations). In Section 5, we discuss socioeconomic discrimination; discrimination against persons with HIV/AIDS; societal violence against women, children, homosexuals, persons with disabilities, or ethnic minorities; and the efforts, if any, of governments to combat these problems.

The following notes on specific sections in each country report are not meant to be comprehensive descriptions but rather to provide an overview of the key problems covered and their organization:

*Arbitrary or Unlawful Deprivation of Life.*—Includes killings by governments without due process of law or where there is evidence of a political motive. Also covers extrajudicial killings (for example, the unlawful and deliberate killing of individuals carried out by order of a government or with its complicity), as well as killings by police or security forces and actions that resulted in the unintended death of persons without due process of law (for example, mistargeted bombing or shelling or killing of bystanders). The section generally excludes combat deaths and killings by common criminals if the likelihood of political motivation can be ruled out. Deaths in detention due to official negligence are covered in detail in the section on “Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.”

*Disappearance.*—Covers cases in which political motivation appears likely and in which the victims have not been found or perpetrators have not been identified. Cases eventually classified as political killings in which the bodies of missing persons are discovered also are covered in the previous section, while those eventually identified as having been arrested or held in detention may be covered under “Arbitrary Arrest or Detention.”

*Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Covers torture (an act of intentionally inflicting severe pain, whether physical or mental) and cruel, inhuman, or degrading treatment or punishment committed by or at the instigation of government forces or opposition groups. The section discusses actual occurrences, not whether they fit any precise definition, and includes use of physical and other force that may fall short of torture but which is cruel, inhuman, or degrading. In some reports, there may be discussion of poor treatment that may not constitute torture or cruel, inhuman, or degrading treatment. The section also covers prison conditions, including information based on international standards, and deaths in prison due to negligence by government officials.

*Arbitrary Arrest or Detention.*—Includes cases in which detainees, including political detainees, are held in official custody without being charged or, if charged, are denied a public preliminary judicial hearing within a reasonable period. The section also includes subsections on the role of the police and security apparatus, arrest and detention practices, and any amnesties that may have occurred during the year.

*Denial of Fair Public Trial.*—Describes the court system and evaluates whether there is an independent judiciary and whether trials are both fair and public (failure to hold any trial is noted in the section above). The subsection “Political Prisoners” covers persons convicted and imprisoned essentially for political beliefs or nonviolent acts of dissent or expression, regardless of the actual legal charge (political detainees are covered with arbitrary detention). The optional subsection “Property Restitution” is included if there is a systemic failure of a government to enforce court orders with respect to restitution or compensation for the taking of private property under domestic law.

*Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Discusses the “passive” right of the individual to noninterference by the state. Includes the right to receive foreign publications, for example, while the right to publish is discussed under “Freedom of Speech and Press.” Includes the right to be free from coercive population control measures, including coerced abortion and involuntary sterilization, but does not include cultural or traditional practices, such as female genital mutilation, which are addressed in Section 5.

*Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—This optional section describes abuses in countries experiencing significant internal armed conflict. Includes indiscriminate, nonselective killings arising from excessive use of force, or by the shelling of villages (deliberate, targeted killing is discussed in the section on “Arbitrary or Unlawful Deprivation of Life”). Also includes abuses against civilian noncombatants. For countries where use of this section would be inappropriate, that is where there is no significant internal or external conflict, lethal use of excessive force by security forces is discussed in the section on “Arbitrary or Unlawful Deprivation of Life”; nonlethal excessive force is discussed in the section on “Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.”

*Freedom of Speech and Press.*—Evaluates whether these freedoms exist and describes any direct or indirect restrictions. The section includes discussion of government restrictions on access to the Internet and academic freedom.

*Freedom of Peaceful Assembly and Association.*—Evaluates the ability of individuals and groups (including political parties) to exercise these freedoms. Includes the ability of trade associations, professional bodies, and similar groups to maintain relations or affiliate with recognized international bodies in their fields. The right of workers to associate, organize, and bargain collectively is discussed under the section on “Worker Rights” (see Appendix B).

*Freedom of Religion.*—Discusses whether the law provides for the right of citizens of any religious belief to worship free of government interference and whether the government generally respected that right. The section covers the freedom to publish religious documents in foreign languages; addresses the treatment of foreign clergy and whether religious belief or lack thereof affects membership in a ruling party, a career in government, or ability to obtain services and privileges available to other citizens. The subsection “Societal Abuses and Discrimination” reports societal violence, harassment and discrimination against members of religious groups. The annual *International Religious Freedom Report* supplements the information in this section.

*Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Includes subsections “Internally Displaced Persons (IDPs)” and “Protection of Refugees.” “Refugees” may refer to persons displaced by civil strife or natural disaster as well as persons who are “refugees” within the meaning of the Refugee Act of 1980, that is, persons with a “well-founded fear of persecution” in their country of origin or, if stateless, in their country of habitual residence, on account of race, religion, nationality, membership in a particular social group, or political opinion. The section also discusses whether, and under what circumstances, governments exiled citizens.

*Respect for Political Rights: The Right of Citizens to Change Their Government.*—Discusses the extent to which citizens have freedom of political choice and the legal right and ability in practice to change the laws and officials that govern them. The subsection “Elections and Political Participation” assesses whether elections were free and fair. The subsection “Government Corruption and Transparency” covers allegations of corruption in the executive or legislative branches of government and whether the public has access in law and practice to government information.

*Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights.*—Discusses whether the government permits the free functioning of local human rights groups (including the right to investigate and publish their findings on alleged human rights abuses), whether these groups are subject to reprisal by government or other forces, and whether government officials are cooperative and responsive to their views. The section also discusses whether the government grants access to and cooperates with outside entities (including foreign human rights organizations, international organizations, and foreign governments) interested in human rights developments in the country.

*Discrimination, Societal Abuses, and Trafficking in Persons.*—Contains subheadings on Women, Children, Trafficking in Persons, and Persons with Disabilities. As appropriate, also includes subheadings on National/Racial/Ethnic Minorities, Indigenous People, Incitement to Acts of Discrimination, and Other Societal Abuses and Discrimination. Addresses discrimination and abuses not discussed elsewhere in the report, focusing on laws, regulations, or state practices that are inconsistent with equal access to housing, employment, education, health care, or other governmental benefits for members of specific groups. (Abuses by government or opposition forces, such as killing, torture and other violence, or restriction of voting rights or free speech targeted against specific groups would be discussed under the appropriate preceding sections.) The subsection “Women” discusses societal violence against women, e.g., “dowry deaths,” “honor killings,” wife beating, rape, female genital mutilation, and government tolerance of such practices, as well as the extent to which the law provides for, and the government enforces, equality of economic opportunity for women. The subsection “Children” discusses violence or other abuse against children. Coverage of the practice of child marriage has been expanded in this year’s report. The subsection “Persons with Disabilities” covers discrimination against persons with physical and mental disabilities in, among other things, employment, education, and the provision of other government services.

The trafficking in persons subsection covers all acts involving the recruitment, harboring, transportation, provision, or obtaining of a person (man, woman, or child) for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Sex trafficking is the recruitment, harboring, transportation, provision, or obtaining of a

person for the purpose of a commercial sex act induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age. Reporting describes any legal prohibitions against trafficking; the extent to which the government enforces these prohibitions; the extent and nature of trafficking in persons to, from, or within the country, other geographic regions or countries affected by the traffic; the participation, facilitation, involvement or complicity of any government agents in trafficking; and aid or protection available to victims.

*Worker Rights.*—See Appendix B.

#### *Explanatory Notes*

In many cases, the *Country Reports on Human Rights Practices* state that a country “generally respected” the rights of its citizens. The phrase “generally respected” is used because the protection and promotion of human rights is a dynamic endeavor; it cannot accurately be stated that any government fully respected these rights all the time without qualification, in even the best of circumstances. Accordingly, “generally respected” is the standard phrase used to describe all countries that attempt to protect human rights in the fullest sense, and is thus the highest level of respect for human rights assigned by this report.

In some instances, this year’s *Country Reports* use the word “Islamist,” which should be interpreted by readers as a Muslim who supports Islamic values and beliefs as the basis for political and social life.

Since the Secretary of State designates foreign groups or organizations as *foreign terrorist organizations* (FTOs) on the FTO list, only those groups on the FTO list dated October 11, 2005 will be described as “terrorists” in the reports.

When describing whether a government provides “protection against *refoulement*,” the reports are referring to the international legal principle contained in the Convention Relating to the Status of Refugees that prohibits states from expelling or returning a refugee in any manner whatsoever to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, political opinion, or membership in a particular social group.

Subject headings in these reports are used to introduce general topics, and the report text that follows such headings is intended to describe facts generally relevant to those topics and is not intended to reach conclusions of a legal character.

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#### APPENDIX B.—REPORTING ON WORKER RIGHTS

The 1984 Generalized System of Preferences (GSP) Renewal Act requires reporting on worker rights in GSP beneficiary countries. It states that internationally recognized worker rights include: “(A) the right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.” All five aspects of worker rights are discussed in each country report under the section heading “Worker Rights.” The discussion of worker rights considers not only laws and regulations but also their practical implementation and takes into account the following additional guidelines:

A. “The right of association” has been defined by the International Labor Organization (ILO) to include the right of workers and employers to establish and join organizations of their own choosing without previous authorization; to draw up their own constitutions and rules, elect their representatives, and formulate their programs; to join in confederations and affiliate with international organizations; and to be protected against dissolution or suspension by administrative authority.

The right of association includes the right of workers to strike. While strikes may be restricted in essential services, the interruption of which would endanger the life, personal safety, or health of a significant portion of the population, and in the public sector, these restrictions must be offset by adequate safeguards for the interests of the workers concerned (for example, mechanisms for mediation and arbitration, due process, and the right to judicial review of legal actions). Reporting on restrictions on the ability of workers to strike generally includes information on any procedures that may exist for safeguarding workers’ interests.

B. “The right to organize and bargain collectively” includes the right of workers to be represented in negotiating the prevention and settlement of disputes with employers, the right to protection against interference, and the right to protection against acts of antiunion discrimination. Governments should promote mechanisms for voluntary negotiations between employers and workers and their organizations. Coverage of the right to organize and bargain collectively includes a review of the



extent to which collective bargaining takes place and the extent to which unions, both in law and practice, effectively are protected against antiunion discrimination.

C. "Forced or compulsory labor" is defined as work or service exacted under the menace of penalty and for which a person has not volunteered. "Work or service" does not apply where obligations are imposed to undergo education or training. "Menace of penalty" includes loss of rights or privileges as well as penal sanctions. The ILO has exempted the following from its definition of forced labor: compulsory military service, normal civic obligations, certain forms of prison labor, emergencies, and minor communal services. Forced labor should not be used as a means of: (1) mobilizing and using labor for purposes of economic development; (2) racial, social, national, or religious discrimination; (3) political coercion or education, or as a punishment for holding or expressing political or ideological views opposed to the established political, social, or economic system; (4) labor discipline; or (5) as a punishment for having participated in strikes. Constitutional provisions concerning the obligation of citizens to work do not violate this right so long as they do not take the form of legal obligations enforced by sanctions and are consistent with the principle of "freely chosen employment."

D. "Minimum age for employment of children" concerns the effective abolition of child labor by raising the minimum age for employment to a level consistent with the fullest physical and mental development of young people. ILO Convention 182 on the "worst forms of child labor" identifies anyone under the age of 18 as a child and specifies certain types of employment as "the worst forms of child labor". These worst forms of labor include slavery, debt bondage, forced labor, forced recruitment into armed conflict, child prostitution and pornography, involvement in illicit activity such as drug production or trafficking, and "work which, by its nature, or the circumstances in which it is carried out, is likely to harm the health, safety or morals or children." ILO Convention 182 permits the employment of children between the ages of 16 and 18 in what the convention describes as an "unhealthy environment," if adequate protective measures have been taken.

E. "Acceptable conditions of work" refers to the establishment and maintenance of mechanisms, adapted to national conditions, that provide for minimum working standards, that is: wages that provide a decent living for workers and their families; working hours that do not exceed 48 hours per week, with a full 24-hour rest day; a specified number of annual paid leave days; and minimum conditions for the protection of the safety and health of workers. Differences in the levels of economic development are taken into account in the formulation of internationally recognized labor standards. For example, many ILO standards concerning working conditions permit flexibility in their scope and coverage. They also may permit governments a wide choice in their implementation, including progressive implementation, by enabling them to accept a standard in part or subject to specified exceptions. Governments are expected to take steps over time to achieve the higher levels specified in such standards. However, this flexibility applies only to internationally recognized standards concerning working conditions, not to the basic human rights standards, that is, freedom of association, the right to organize and bargain collectively, the prohibition of forced labor and child labor, and the absence of discrimination in employment.

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## APPENDIX C.—SELECTED INTERNATIONAL HUMAN RIGHTS CONVENTIONS

| COUNTRY              | 1                            | 2                 | 3        | 4                 | 5                | 6                | 7                  | 8                      | 9                         | 10                         | 11                 | 12                    | 13                         | 14                       | 15                    | 16                  | 17                     | 18                 | 19                | 20                 | 21    | 22      | 23                  | 24                 | 25 |
|----------------------|------------------------------|-------------------|----------|-------------------|------------------|------------------|--------------------|------------------------|---------------------------|----------------------------|--------------------|-----------------------|----------------------------|--------------------------|-----------------------|---------------------|------------------------|--------------------|-------------------|--------------------|-------|---------|---------------------|--------------------|----|
|                      | Slavery<br>ILO Convention 29 | ILO Convention 87 | Genocide | ILO Convention 98 | Prisoners of War | Civilians in War | Traffic in Persons | European HR Convention | Political Rights of Women | Supplemental Slavery Conv. | ILO Convention 105 | Racial Discrimination | Civil and Political Rights | Econ/Soc/Cultural Rights | UN Refugee Convention | UN Refugee Protocol | American HR Convention | ILO Convention 138 | Geneva Protocol I | Geneva Protocol II | CEDAW | Torture | Rights of the Child | ILO Convention 182 |    |
| Afghanistan          | P                            |                   |          | P                 |                  | P                | P                  | P                      |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    |                   |                    |       | S       | P                   | P                  |    |
| * Albania            | P                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   |                        | P                  | P                 | P                  | P     | P       | P                   | P                  | P  |
| Algeria              | P                            | P                 | P        | P                 | P                | P                | P                  | P                      |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   |                        | P                  | P                 | P                  | P     | P       | P                   | P                  | P  |
| Andorra              |                              |                   |          |                   |                  | P                | P                  |                        | P                         |                            |                    | S                     | S                          |                          |                       |                     |                        |                    |                   |                    |       | P       | S                   | P                  |    |
| Angola               | P                            | P                 |          |                   | P                | P                | P                  |                        |                           | P                          |                    | P                     |                            | P                        | P                     | P                   | P                      |                    | P                 | P                  |       | P       |                     | P                  | P  |
| Antigua & Barbuda    | P                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | 1                          | P                  | P                     | P                          |                          |                       | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Argentina            | P                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      | P                  | P                 | P                  | P     | P       | P                   | P                  | P  |
| Armenia              | P                            |                   |          | P                 | P                | P                | P                  |                        | P                         |                            |                    | P                     | P                          | P                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P  |
| Australia            | P                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  |    |
| Austria              | P                            | P                 | P        | P                 | P                | P                | P                  |                        | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Azerbaijan           | P                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         |                            | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 |                    |       | P       | P                   | P                  | P  |
| Bahamas              | P                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          |                          |                       | P                   | P                      |                    | P                 | P                  | P     | P       |                     | P                  | P  |
| Bahrain              | P                            | P                 |          | P                 |                  | P                | P                  |                        |                           |                            | P                  | P                     | P                          |                          |                       |                     |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Bangladesh           | P                            | P                 | P        | P                 | P                | P                | P                  | P                      |                           | P                          | P                  | P                     | P                          | P                        | P                     |                     |                        |                    |                   | P                  | P     | P       | P                   | P                  | P  |
| Barbados             | P                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          | P                        | P                     |                     |                        | P                  | P                 | P                  | P     | P       |                     | P                  | P  |
| Belarus              | P                            | P                 | P        | P                 | P                | P                | P                  | P                      |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Belgium              | P                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Belize               | 1                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | 1                          | P                  | P                     | P                          | P                        | S                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Benin                | 2                            | P                 | P        |                   | P                | P                |                    |                        |                           |                            |                    | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| * Bhutan             |                              |                   |          |                   |                  | P                | P                  |                        |                           |                            |                    | S                     |                            |                          |                       |                     |                        |                    |                   |                    |       | P       |                     | P                  |    |
| Bolivia              | P                            | P                 | P        | P                 | P                | P                | P                  | P                      |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      | P                  | P                 | P                  | P     | P       | P                   | P                  | P  |
| Bosnia & Herzegovina | P                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Botswana             | 1                            | P                 | P        |                   | P                | P                | P                  |                        |                           | 1                          | P                  | P                     | P                          | P                        |                       | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Brazil               | P                            | P                 |          | P                 | P                | P                | P                  | P                      |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      | P                  | P                 | P                  | P     | P       | P                   | P                  | P  |
| * Brunei             | 1                            |                   |          |                   |                  | P                | P                  |                        |                           | 1                          |                    |                       |                            |                          |                       |                     |                        |                    |                   | P                  | P     |         |                     | P                  |    |
| Bulgaria             | 2                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Burkina Faso         |                              | P                 | P        | P                 | P                | P                | P                  | P                      |                           |                            |                    | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Burma                | P                            | P                 | P        | P                 |                  | P                | P                  | S                      |                           | S                          |                    |                       |                            |                          |                       |                     |                        |                    |                   |                    |       | P       |                     | P                  |    |
| Burundi              |                              | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          |                    | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Cambodia             |                              | P                 | P        | P                 | P                | P                | P                  | S                      |                           | S                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  |    |
| Cameroon             | P                            | P                 | P        |                   | P                | P                | P                  | P                      |                           |                            | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |
| Canada               | P                            |                   | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P  |
| Cape Verde           |                              | P                 | P        |                   | P                | P                | P                  |                        |                           |                            |                    | P                     | P                          | P                        | P                     |                     | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P  |

P = Party

S = Signatory

\* = non-ILO member

1 = Based on general declaration concerning treaty obligations prior to independence

2 = Party to 1926 Convention only

APPENDIX C.—SELECTED INTERNATIONAL HUMAN RIGHTS CONVENTIONS—  
Continued

| COUNTRY                    | 1                                                 | 2 | 3 | 4        | 5                                     | 6                | 7                  | 8                                                                                 | 9 | 10                 | 11                                                                                                                              | 12                                                                                                          | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |   |
|----------------------------|---------------------------------------------------|---|---|----------|---------------------------------------|------------------|--------------------|-----------------------------------------------------------------------------------|---|--------------------|---------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|---|
|                            | Slavery<br>ILO Convention 29<br>ILO Convention 87 |   |   | Genocide | ILO Convention 98<br>Prisoners of War | Civilians in War | Traffic in Persons | European HR Convention<br>Political Rights of Women<br>Supplemental Slavery Conv. |   | ILO Convention 105 | Racial Discrimination<br>Civil and Political Rights<br>Econ/Soc/Cultural Rights<br>UN Refugee Convention<br>UN Refugee Protocol | American HR Convention<br>ILO Convention 138<br>Geneva Protocol I<br>Geneva Protocol II<br>CEDAW<br>Torture |    |    |    |    |    |    |    |    |    |    |    |    |    |   |
| Central African Republic   | 2                                                 | P | P |          | P                                     | P                | P                  | P                                                                                 |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Chad                       |                                                   | P | P |          | P                                     | P                | P                  |                                                                                   |   |                    |                                                                                                                                 | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Chile                      | P                                                 | P | P | P        | P                                     | P                | P                  |                                                                                   |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| China                      | 2                                                 |   |   | P        |                                       | P                | P                  |                                                                                   |   | P                  |                                                                                                                                 |                                                                                                             | P  | S  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| China Hong Kong            | P                                                 |   |   | P        |                                       |                  |                    |                                                                                   |   | P                  |                                                                                                                                 |                                                                                                             | P  |    |    |    |    |    |    |    |    |    | P  | P  | P  |   |
| China Macau from 12-20-99  |                                                   |   |   | P        |                                       |                  |                    |                                                                                   |   |                    |                                                                                                                                 |                                                                                                             | P  |    |    |    |    |    |    |    |    |    |    | P  |    |   |
| China Macau to 12-19-99    |                                                   |   |   | P        |                                       |                  |                    | P                                                                                 |   | P                  |                                                                                                                                 | P                                                                                                           | P  | P  | P  | P  | P  |    |    |    |    |    | P  | P  | P  |   |
| * China Taiwan only        | P                                                 |   |   | P        |                                       |                  |                    |                                                                                   |   | P                  | P                                                                                                                               |                                                                                                             | P  | S  | S  |    |    |    |    |    |    |    |    | P  | P  | P |
| Colombia                   | S                                                 | P | P | P        | P                                     | P                | P                  |                                                                                   |   | P                  |                                                                                                                                 | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Comoros                    |                                                   | P | P | P        | P                                     | P                | P                  |                                                                                   |   |                    |                                                                                                                                 | P                                                                                                           | P  |    |    |    |    |    | P  | P  | P  | P  | S  | P  | P  | P |
| Congo, Democratic Republic |                                                   | P | P | P        | P                                     | P                | P                  |                                                                                   |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Congo, Republic            | 2                                                 | P | P |          | P                                     | P                | P                  | P                                                                                 |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Cook Islands               |                                                   |   |   |          |                                       |                  | P                  | P                                                                                 |   |                    |                                                                                                                                 |                                                                                                             |    |    |    |    |    |    |    | P  | P  |    |    |    |    |   |
| Costa Rica                 |                                                   | P | P | P        | P                                     | P                | P                  |                                                                                   |   | P                  |                                                                                                                                 | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Cote D'Ivoire              | 2                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Croatia                    | P                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 | P | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Cuba                       | P                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 |   | P                  | P                                                                                                                               | P                                                                                                           | P  |    |    |    |    |    | P  | P  | P  | P  | P  | P  | P  | P |
| Cyprus                     | P                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 | P | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Czech Republic             | 2                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 | P | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Denmark                    | P                                                 | P | P | P        | P                                     | P                | P                  | S                                                                                 | P | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Djibouti                   |                                                   | P | P |          | P                                     | P                | P                  | P                                                                                 |   |                    |                                                                                                                                 | P                                                                                                           | P  |    | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Dominica                   | P                                                 | P | P |          | P                                     | P                | P                  |                                                                                   |   | 1                  | P                                                                                                                               | P                                                                                                           |    | P  | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P |
| Dom Republic               | S                                                 | P | P | S        | P                                     | P                | P                  |                                                                                   |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | S  | P  | P  | P |
| East Timor                 |                                                   |   |   |          |                                       |                  | P                  |                                                                                   |   |                    |                                                                                                                                 |                                                                                                             |    |    |    |    |    |    |    | P  | P  |    |    |    |    |   |
| Ecuador                    | P                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Egypt                      | P                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| El Salvador                |                                                   | P |   | P        |                                       | P                | P                  |                                                                                   |   | S                  | S                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Equatorial Guinea          |                                                   | P | P |          | P                                     | P                | P                  |                                                                                   |   |                    |                                                                                                                                 | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Eritrea                    |                                                   | P | P |          | P                                     | P                | P                  |                                                                                   |   |                    |                                                                                                                                 | P                                                                                                           | P  | P  | P  |    |    |    | P  |    |    |    | P  |    | P  |   |
| Estonia                    | 2                                                 | P | P | P        | P                                     | P                | P                  |                                                                                   | P |                    |                                                                                                                                 | P                                                                                                           | P  | P  | P  | P  | P  |    |    | P  | P  | P  | P  | P  | P  | P |
| Ethiopia                   | P                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 |   | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Fiji                       | P                                                 | P | P | P        | P                                     | P                | P                  |                                                                                   |   | P                  | P                                                                                                                               | P                                                                                                           | P  |    |    | P  | P  | P  |    |    |    | P  |    | P  | P  | P |
| Finland                    | P                                                 | P | P | P        | P                                     | P                | P                  | P                                                                                 | P | P                  | P                                                                                                                               | P                                                                                                           | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |

P = Party

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APPENDIX C.—SELECTED INTERNATIONAL HUMAN RIGHTS CONVENTIONS—  
Continued

| COUNTRY                     |                              | 1                 | 2        | 3                 | 4                | 5                | 6                  | 7                      | 8                         | 9                          | 10                 | 11                    | 12                         | 13                       | 14                    | 15                  | 16                     | 17                 | 18                | 19                 | 20    | 21      | 22                  | 23                 | 24 | 25 |
|-----------------------------|------------------------------|-------------------|----------|-------------------|------------------|------------------|--------------------|------------------------|---------------------------|----------------------------|--------------------|-----------------------|----------------------------|--------------------------|-----------------------|---------------------|------------------------|--------------------|-------------------|--------------------|-------|---------|---------------------|--------------------|----|----|
|                             | Slavery<br>ILO Convention 29 | ILO Convention 87 | Genocide | ILO Convention 98 | Prisoners of War | Civilians in War | Traffic in Persons | European HR Convention | Political Rights of Women | Supplemental Slavery Conv. | ILO Convention 105 | Racial Discrimination | Civil and Political Rights | Econ/Soc/Cultural Rights | UN Refugee Convention | UN Refugee Protocol | American HR Convention | ILO Convention 138 | Geneva Protocol I | Geneva Protocol II | CEDAW | Torture | Rights of the Child | ILO Convention 182 |    |    |
| France                      | P                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Gabon                       |                              | P                 | P        | P                 | P                | P                |                    |                        | P                         |                            |                    | P                     | P                          | P                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P  |    |
| Gambia                      | 1                            | P                 | P        | P                 | P                | P                | P                  |                        |                           |                            | 1                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | S       | P                   | P                  | P  |    |
| Georgia                     |                              | P                 | P        | P                 | P                | P                | P                  |                        | P                         | P                          |                    | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Germany                     | P                            | P                 | P        | P                 | P                | P                |                    | P                      | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Ghana                       | 2                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P  |    |
| Greece                      | P                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Grenada                     | 1                            | P                 | P        | 1                 | P                | P                | P                  |                        |                           | 1                          | 1                  | P                     | S                          | P                        | P                     |                     |                        | P                  | P                 | P                  | P     | P       |                     |                    | P  | P  |
| Guatemala                   | P                            | P                 | P        | P                 | P                | P                |                    |                        |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      | P                  | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Guinea                      | P                            | P                 | P        | P                 | P                | P                | P                  | P                      |                           | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P  |    |
| Guinea-Bissau               |                              | P                 |          |                   | P                | P                |                    |                        |                           |                            |                    | P                     | S                          | S                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | S                   | P                  |    |    |
| Guyana                      | 1                            | P                 | P        |                   | P                | P                | P                  |                        |                           |                            | 1                  | P                     | P                          | P                        | P                     |                     |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Haiti                       | 2                            | P                 | P        | P                 | P                | P                | P                  |                        |                           | P                          | P                  | P                     | P                          |                          |                       | P                   | P                      | P                  |                   |                    |       | P       |                     | P                  |    |    |
| Holy See                    |                              |                   |          |                   |                  | P                | P                  |                        |                           |                            |                    |                       | P                          |                          |                       | P                   | P                      |                    |                   | P                  | P     |         | P                   | P                  |    |    |
| Honduras                    |                              | P                 | P        | P                 | P                | P                | P                  | P                      |                           |                            |                    |                       | P                          | P                        | P                     | P                   | P                      | P                  | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Hungary                     | P                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Iceland                     |                              | P                 | P        | P                 | P                | P                | P                  |                        | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| India                       | P                            | P                 |          | P                 |                  | P                | P                  | P                      |                           |                            | P                  | P                     | P                          | P                        | P                     | P                   |                        |                    |                   |                    |       | P       | S                   | P                  |    |    |
| Indonesia                   |                              | P                 | P        |                   | P                | P                | P                  |                        |                           |                            | P                  |                       | P                          | P                        |                       |                     |                        |                    | P                 |                    |       | P       | P                   | P                  | P  |    |
| Iran                        | S                            | P                 |          | P                 |                  | P                | P                  | S                      |                           |                            |                    | P                     | P                          | P                        | P                     | P                   | P                      | P                  |                   | S                  | S     |         |                     |                    | P  | P  |
| Iraq                        | P                            | P                 |          | P                 | P                | P                | P                  | P                      |                           |                            |                    | P                     | P                          | P                        | P                     | P                   |                        |                    | P                 |                    |       | P       | P                   | P                  | P  |    |
| Ireland                     | P                            | P                 | P        | P                 | P                | P                | P                  |                        | P                         | P                          | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Israel                      | P                            | P                 | P        | P                 | P                | P                | P                  | P                      |                           |                            | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 |                    |       | P       | P                   | P                  | P  |    |
| Italy                       | P                            | P                 | P        | P                 | P                | P                | P                  | P                      | P                         |                            | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Jamaica                     | P                            | P                 | P        | P                 | P                | P                | P                  |                        |                           |                            | P                  | P                     | P                          | P                        | P                     | P                   | P                      | P                  | P                 | P                  | P     |         |                     | P                  | P  |    |
| Japan                       |                              | P                 | P        |                   | P                | P                | P                  | P                      |                           |                            |                    |                       | P                          | P                        | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P  |    |
| Jordan                      | P                            | P                 |          | P                 | P                | P                | P                  | P                      |                           |                            | P                  | P                     | P                          | P                        | P                     |                     |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Kazakhstan                  |                              | P                 | P        | P                 | P                | P                | P                  | S                      |                           |                            | P                  |                       | P                          |                          |                       | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Kenya                       |                              | P                 |          |                   | P                | P                | P                  |                        |                           |                            |                    |                       | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| * Kiribati                  | 1                            | P                 | P        |                   | P                | P                | P                  |                        |                           |                            | 1                  | 1                     | P                          |                          | 1                     | 1                   | 1                      |                    |                   |                    |       | P       |                     | P                  |    |    |
| * Korea, Democratic Rep. of |                              |                   |          | P                 |                  | P                | P                  |                        |                           |                            |                    |                       |                            | P                        | P                     |                     |                        |                    | P                 |                    | P     |         | P                   |                    |    |    |
| * Korea, Republic of        |                              |                   |          | P                 |                  | P                | P                  | P                      | P                         |                            |                    |                       | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Kuwait                      | P                            | P                 | P        | P                 |                  | P                | P                  | P                      |                           |                            |                    | P                     | P                          | P                        | P                     | P                   |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |
| Kyrgyzstan                  | P                            | P                 | P        | P                 | P                | P                | P                  | P                      |                           |                            | P                  | P                     | P                          | P                        | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P  |    |

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APPENDIX C.—SELECTED INTERNATIONAL HUMAN RIGHTS CONVENTIONS—  
Continued

| COUNTRY            | 1                                                 | 2 | 3 | 4                             | 5 | 6                                    | 7 | 8                  | 9                      | 10                        | 11                         | 12 | 13                 | 14                    | 15                                                     | 16                    | 17                  | 18                     | 19                 | 20                | 21                 | 22    | 23      | 24                  | 25                 |   |
|--------------------|---------------------------------------------------|---|---|-------------------------------|---|--------------------------------------|---|--------------------|------------------------|---------------------------|----------------------------|----|--------------------|-----------------------|--------------------------------------------------------|-----------------------|---------------------|------------------------|--------------------|-------------------|--------------------|-------|---------|---------------------|--------------------|---|
|                    | Slavery<br>ILO Convention 29<br>ILO Convention 87 |   |   | Genocide<br>ILO Convention 98 |   | Prisoners of War<br>Civilians in War |   | Traffic in Persons | European HR Convention | Political Rights of Women | Supplemental Slavery Conv. |    | ILO Convention 105 | Racial Discrimination | Civil and Political Rights<br>Econ/Soc/Cultural Rights | UN Refugee Convention | UN Refugee Protocol | American HR Convention | ILO Convention 138 | Geneva Protocol I | Geneva Protocol II | CEDAW | Torture | Rights of the Child | ILO Convention 182 |   |
| Laos               | P                                                 |   |   | P                             |   | P                                    | P | P                  |                        | P                         | P                          |    |                    | P                     | S                                                      | S                     |                     |                        |                    | P                 | P                  | P     | P       |                     | P                  | P |
| Latvia             | 2                                                 |   | P | P                             | P | P                                    | P | P                  | P                      | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Lebanon            | 2                                                 | P |   | P                             | P | P                                    | P |                    |                        | P                         |                            | P  | P                  | P                     | P                                                      | P                     |                     |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Lesotho            | P                                                 | P | P | P                             | P | P                                    | P | P                  | P                      |                           | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Liberia            | P                                                 | P | P | P                             | P | P                                    | P | S                  |                        | S                         | S                          | P  | P                  | P                     | P                                                      | P                     | P                   |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Libya              | P                                                 | P | P | P                             | P | P                                    | P | P                  | P                      | P                         | P                          | P  | P                  | P                     | P                                                      |                       |                     |                        | P                  | P                 | P                  | P     | P       | P                   | P                  | P |
| * Liechtenstein    |                                                   |   |   | P                             |   | P                                    | P |                    | P                      |                           |                            |    |                    | P                     | P                                                      | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  |   |
| Lithuania          | S                                                 | P | P | P                             | P | P                                    | P |                    | P                      |                           |                            |    | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Luxembourg         |                                                   | P | P | P                             | P | P                                    | P | P                  | P                      | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Macedonia          | 2                                                 | P | P | P                             | P | P                                    | P | P                  | P                      | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Madagascar         | P                                                 | P | P |                               | P | P                                    | P | S                  |                        | P                         | P                          |    |                    | P                     | P                                                      | P                     | P                   |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Malawi             | P                                                 | P | P |                               | P | P                                    | P | P                  |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Malaysia           | P                                                 |   |   | P                             | P | P                                    | P |                    |                        | P                         |                            |    |                    |                       |                                                        |                       |                     |                        | P                  |                   |                    | P     |         | P                   | P                  |   |
| * Maldives         |                                                   |   |   | P                             |   | P                                    | P |                    |                        |                           |                            |    |                    | P                     |                                                        |                       |                     |                        |                    | P                 | P                  | P     | P       | P                   | P                  |   |
| Mali               | P                                                 | P | P | P                             | P | P                                    | P | P                  |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Malta              | P                                                 | P | P |                               | P | P                                    | P |                    | P                      | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| * Marshall Islands |                                                   |   |   |                               |   | P                                    |   |                    |                        |                           |                            |    |                    |                       |                                                        |                       |                     |                        |                    |                   |                    |       |         | P                   |                    |   |
| Mauritania         | P                                                 | P | P |                               | P | P                                    | P | P                  |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Mauritius          | P                                                 | P | P |                               | P | P                                    | P |                    |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     |                     |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Mexico             | P                                                 | P | P | P                             |   | P                                    | P | P                  |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 |                    | P     | P       | P                   | P                  | P |
| * Micronesia       |                                                   |   |   |                               |   | P                                    | P |                    |                        |                           |                            |    |                    |                       |                                                        |                       |                     |                        |                    | P                 | P                  | P     |         | P                   |                    |   |
| Moldova            |                                                   | P | P | P                             | P | P                                    | P |                    | P                      | P                         |                            |    | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| * Monaco           | P                                                 |   |   | P                             |   | P                                    | P |                    | S                      |                           |                            |    |                    | P                     | P                                                      | P                     | P                   |                        |                    | P                 | P                  | P     | P       | P                   | P                  |   |
| Mongolia           | P                                                 |   | P | P                             | P | P                                    | P |                    |                        | P                         | P                          |    |                    | P                     | P                                                      | P                     |                     |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Morocco            | P                                                 | P |   | P                             | P | P                                    | P | P                  |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | S                  | S     | P       | P                   | P                  | P |
| Mozambique         |                                                   | P | P | P                             | P | P                                    | P |                    |                        |                           |                            |    | P                  | P                     | P                                                      |                       | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Namibia            |                                                   | P | P | P                             | P | P                                    | P |                    |                        |                           |                            |    | P                  | P                     | P                                                      | P                     | P                   |                        |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| * Nauru            |                                                   |   |   |                               |   |                                      |   |                    |                        |                           |                            |    | S                  | S                     |                                                        |                       |                     |                        |                    |                   |                    |       | S       | P                   |                    |   |
| Nepal              | P                                                 | P |   | P                             | P | P                                    | P | P                  |                        | P                         | P                          |    |                    | P                     | P                                                      | P                     |                     |                        |                    | P                 |                    |       |         | P                   | P                  | P |
| Netherlands        | P                                                 | P | P | P                             | P | P                                    | P |                    | P                      | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| New Zealand        | P                                                 | P |   | P                             | P | P                                    | P |                    |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    |                   | P                  | P     | P       | P                   | P                  | P |
| Nicaragua          | P                                                 | P | P | P                             | P | P                                    | P |                    |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Niger              | P                                                 | P | P |                               | P | P                                    | P | P                  |                        | P                         | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |
| Nigeria            | P                                                 | P | P |                               | P | P                                    | P |                    |                        |                           | P                          | P  | P                  | P                     | P                                                      | P                     | P                   | P                      |                    | P                 | P                  | P     | P       | P                   | P                  | P |

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APPENDIX C.—SELECTED INTERNATIONAL HUMAN RIGHTS CONVENTIONS—  
Continued

| COUNTRY               | 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |   |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|---|
|                       | Slavery<br>ILO Convention 29<br>ILO Convention 87<br>Genocide<br>ILO Convention 98<br>Prisoners of War<br>Civilians in War<br>Traffic in Persons<br>European HR Convention<br>Political Rights of Women<br>Supplemental Slavery Conv.<br>ILO Convention 105<br>Racial Discrimination<br>Civil and Political Rights<br>Econ/Soc/Cultural Rights<br>UN Refugee Convention<br>UN Refugee Protocol<br>American HR Convention<br>ILO Convention 138<br>Geneva Protocol I<br>Geneva Protocol II<br>CEDAW<br>Torture<br>Rights of the Child<br>ILO Convention 182 |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |   |
| Niue                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    | P  |    |   |
| Norway                | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P | P | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| * Oman                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P |   |   |   | P | P |   |   |    |    | P  | P  |    |    |    |    |    | P  | P  | P  |    |    |    | P  | P |
| Pakistan              | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P |   | P  | P  | P  | P  |    | S  |    |    |    |    | S  | S  | P  |    |    | P  | P |
| Palau                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |   |   |   |   | P | P |   |   |    |    |    |    |    |    |    |    |    |    | P  | P  |    |    |    | P  |   |
| Panama                | S                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P |   |   |    |    | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Papua New Guinea      | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P |   |   | P  |    | P  | P  |    |    | P  | P  |    | P  |    |    | P  |    | P  | P  | P |
| Paraguay              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P | P | P | P | P | P |   |   | P  |    | P  | S  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Peru                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P | P | P | P | P | P |   |   | P  | S  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P |
| Philippines           | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P |   | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | P  | S  | P  | P  | P  | P  | P |
| Poland                | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P | P | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Portugal              | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P | P |    | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Qatar                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P |   |   |   | P | P |   |   |    |    |    | P  |    |    |    |    |    |    | P  | P  |    |    | P  | P  | P |
| Romania               | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P | P | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Russia                | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P | P | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Rwanda                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P | P | P | P | P | P |   |   |    |    | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  |    |    | P  | P |
| * Samoa               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |   |   |   |   | P | P |   |   |    |    |    |    |    |    | P  | P  |    |    | P  | P  | P  |    |    | P  |   |
| San Marino            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P | P |   | P | P | P | P | P |    | P  | P  | P  | P  | P  |    |    |    | P  | P  | P  |    | S  | P  | P  | P |
| Sao Tome & Principe   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P | P |   | P | P | P |   |   |    |    | P  | S  | S  | S  | P  | P  |    | P  | P  | P  | S  | S  | P  | P  | P |
| Saudi Arabia          | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P |   | P | P | P | P |   |   |    | P  | P  | P  |    |    |    |    |    |    | P  | P  | P  | P  | P  | P  | P |
| Senegal               | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P |   | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Serbia & Montenegro   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P | P |   | P | P |   | P |   |    |    | P  |    |    |    |    |    |    | P  | P  |    | P  |    |    | P  |   |
| Seychelles            | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P |   | 1  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Sierra Leone          | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P |   | P | P | P |   |   | P  | P  | P  | P  | P  | P  | P  | P  |    |    | P  | P  | P  | P  | P  | P  | P |
| Singapore             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P |   |   | P | P | P | P |   |    | P  |    |    |    |    |    |    |    | P  |    |    |    |    | P  | P  | P |
| Slovak Republic       | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P | P | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Slovenia              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P | P | P | P | P | P | P | P | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Solomon Islands       | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P |   |   |   | P | P |   |   | P  | P  |    | 1  |    | 1  | P  | P  |    |    | P  | P  | P  |    |    | P  |   |
| Somalia               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | P |   |   |   | P | P |   |   |    |    | P  | P  | P  | P  | P  | P  |    |    |    |    |    |    | P  | S  |   |
| * South Africa        | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P |   | S  |    | P  | P  | P  | S  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Spain                 | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P | P | P  | P  | P  | P  | P  | P  | P  | P  |    | P  | P  | P  | P  | P  | P  | P  | P |
| Sri Lanka             | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | P | P | P | P | P |   |    | P  | P  | P  | P  | P  |    |    |    | P  |    |    |    | P  | P  | P  | P |
| * Saint Kitts & Nevis | 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P |   | P | P | P |   |   | 1  | 1  | P  |    |    |    | P  |    |    | P  | P  | P  |    |    | P  | P  | P |
| Saint Lucia           | P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | P | P | 1 | P | P | P |   |   | 1  | P  | P  | P  |    |    |    |    |    |    | P  | P  | P  |    |    | P  | P |

P = Party

S = Signatory

\* = non-ILO member

1 = Based on general declaration concerning treaty obligations prior to independence

2 = Party to 1926 Convention only

APPENDIX C.—SELECTED INTERNATIONAL HUMAN RIGHTS CONVENTIONS—  
Continued

| COUNTRY                             | 1                                                 | 2 | 3 | 4        | 5                                     | 6 | 7                | 8                  | 9                                                                                 | 10 | 11                 | 12                    | 13                                                                              | 14                  | 15                                           | 16                                               | 17      | 18                                        | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
|-------------------------------------|---------------------------------------------------|---|---|----------|---------------------------------------|---|------------------|--------------------|-----------------------------------------------------------------------------------|----|--------------------|-----------------------|---------------------------------------------------------------------------------|---------------------|----------------------------------------------|--------------------------------------------------|---------|-------------------------------------------|----|----|----|----|----|----|----|
|                                     | Slavery<br>ILO Convention 29<br>ILO Convention 87 |   |   | Genocide | ILO Convention 98<br>Prisoners of War |   | Civilians in War | Traffic in Persons | European HR Convention<br>Political Rights of Women<br>Supplemental Slavery Conv. |    | ILO Convention 105 | Racial Discrimination | Civil and Political Rights<br>Econ/Soc/Cultural Rights<br>UN Refugee Convention | UN Refugee Protocol | American HR Convention<br>ILO Convention 138 | Geneva Protocol I<br>Geneva Protocol II<br>CEDAW | Torture | Rights of the Child<br>ILO Convention 182 |    |    |    |    |    |    |    |
| * Saint Vincent & the<br>Grenadines | P                                                 | P | P | P        | P                                     | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                |         |                                           | P  | P  | P  | P  | P  | P  | P  |
| Sudan                               | P                                                 | P |   |          | P                                     | P | P                |                    |                                                                                   |    | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  |    |    |    | S  | P  | P  |
| Suriname                            | 2                                                 | P | P |          | P                                     | P | P                |                    |                                                                                   | 1  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       | P                                         | P  | P  | P  | P  |    | P  |    |
| Swaziland                           | 1                                                 | P | P |          | P                                     | P | P                |                    |                                                                                   | P  | 1                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Sweden                              | P                                                 | P | P | P        | P                                     | P | P                |                    | P                                                                                 | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Switzerland                         | P                                                 | P | P | P        | P                                     | P | P                |                    | P                                                                                 |    | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Syria                               | P                                                 | P | P | P        | P                                     | P | P                | P                  |                                                                                   |    | P                  | P                     | P                                                                               | P                   | P                                            |                                                  |         |                                           | P  | P  |    |    | P  | P  | P  |
| * Tajikistan                        | P                                                 | P |   |          | P                                     | P | P                | P                  |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Tanzania                            | P                                                 | P | P | P        | P                                     | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Thailand                            |                                                   | P |   |          |                                       | P | P                |                    |                                                                                   | P  |                    | P                     | P                                                                               | P                   | P                                            | P                                                |         |                                           | P  |    |    | P  |    | P  | P  |
| Togo                                | 2                                                 | P | P | P        | P                                     | P | P                | P                  |                                                                                   |    | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| * Tonga                             | 1                                                 |   |   | P        |                                       | P | P                |                    |                                                                                   | 1  | 1                  | 1                     | P                                                                               |                     |                                              |                                                  |         |                                           |    | P  | P  |    |    | P  |    |
| Trinidad & Tobago                   | P                                                 | P | P |          | P                                     | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       | —                                         | P  | P  | P  | P  |    | P  | P  |
| Tunisia                             | P                                                 | P | P | P        | P                                     | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Turkey                              | P                                                 | P | P | P        | P                                     | P | P                |                    | P                                                                                 | P  | P                  | P                     | P                                                                               | S                   | S                                            | P                                                | P       |                                           | P  |    |    | P  | P  | P  | P  |
| Turkmenistan                        | P                                                 | P | P |          | P                                     | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           |    | P  | P  | P  | P  | P  |    |
| * Tuvalu                            | 1                                                 |   |   |          |                                       | P | P                |                    |                                                                                   | 1  | 1                  |                       |                                                                                 | 1                   |                                              | P                                                | P       |                                           |    |    |    | P  |    | P  |    |
| Uganda                              | P                                                 | P | P | P        | P                                     | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Ukraine                             | P                                                 | P | P | P        | P                                     | P | P                | P                  | P                                                                                 | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| United Arab Emirates                |                                                   | P |   | P        |                                       | P | P                |                    |                                                                                   |    |                    |                       | P                                                                               | P                   |                                              |                                                  |         |                                           | P  | P  | P  | P  |    | P  | P  |
| United Kingdom                      | P                                                 | P | P | P        | P                                     | P | P                |                    | P                                                                                 | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| United States                       | P                                                 |   |   | P        |                                       | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | S                                            |                                                  | P       | S                                         |    | S  | S  | S  | P  | S  | P  |
| Uruguay                             | S                                                 | P | P | P        | P                                     | P | P                |                    |                                                                                   | S  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       | P                                         | P  | P  | P  | P  | P  | P  | P  |
| Uzbekistan                          |                                                   | P |   | P        | P                                     | P | P                | P                  |                                                                                   | P  |                    | P                     | P                                                                               | P                   | P                                            |                                                  |         |                                           |    | P  | P  | P  | P  | P  |    |
| * Vanuatu                           |                                                   |   |   |          |                                       | P | P                |                    |                                                                                   | 1  |                    |                       |                                                                                 |                     |                                              |                                                  |         |                                           |    | P  | P  | P  |    | P  |    |
| Venezuela                           |                                                   | P | P | P        | P                                     | P | P                | P                  | P                                                                                 | P  |                    | P                     | P                                                                               | P                   | P                                            |                                                  | P       | P                                         | P  | P  | P  | P  | P  | P  | P  |
| * Vietnam                           | P                                                 |   |   | P        |                                       | P | P                |                    |                                                                                   |    |                    |                       | P                                                                               | P                   | P                                            |                                                  |         |                                           | P  | P  |    | P  |    | P  | P  |
| Yemen                               | P                                                 | P | P | P        | P                                     | P | P                | P                  | P                                                                                 |    |                    | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Yugoslavia                          | P                                                 | P | P | P        | P                                     | P | P                | P                  |                                                                                   | P  | P                  |                       | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Zambia                              | P                                                 | P | P |          | P                                     | P | P                |                    |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  | P  | P  | P  |
| Zimbabwe                            | 1                                                 | P | P | P        | P                                     | P | P                | P                  |                                                                                   | P  | P                  | P                     | P                                                                               | P                   | P                                            | P                                                | P       |                                           | P  | P  | P  | P  |    | P  |    |

P = Party

S = Signatory

\* = non-ILO member

1 = Based on general declaration concerning treaty obligations prior to independence

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## APPENDIX D.—INTERNATIONAL HUMAN RIGHTS CONVENTIONS

- 1) Convention to Suppress the Slave Trade and Slavery of September 25, 1926, as amended by the Protocol of December 7, 1953.
  - 2) Convention Concerning Forced Labor of June 28, 1930 (ILO Convention 29).
  - 3) Convention Concerning Freedom of Association and Protection of the Right to Organize of July 9, 1948 (ILO Convention 87).
  - 4) Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948.
  - 5) Convention Concerning the Application of the Principles of the Right to Organize and Bargain Collectively of July 1, 1949 (ILO Convention 98).
  - 6) Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949.
  - 7) Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.
  - 8) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of March 21, 1950.
  - 9) European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950.
  - 10) Convention on the Political Rights of Women of March 31, 1953.
  - 11) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of September 7, 1956.
  - 12) Convention Concerning the Abolition of Forced Labor of June 25, 1957 (ILO Convention 105).
  - 13) International Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965.
  - 14) International Covenant on Civil and Political Rights of December 16, 1966.
  - 15) International Covenant on Economic, Social and Cultural Rights of December 16, 1966.
  - 16) Convention Relating to the Status of Refugees of July 28, 1951.
  - 17) Protocol Relating to the Status of Refugees of January 31, 1967.
  - 18) American Convention on Human Rights of November 22, 1969.
  - 19) Convention Concerning Minimum Age for Admission to Employment of June 26, 1973 (ILO Convention 138).
  - 20) Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977.
  - 21) Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of June 8, 1977.
  - 22) Convention on the Elimination of All Forms of Discrimination Against Women of December 18, 1979.
  - 23) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984.
  - 24) Convention on the Rights of the Child of November 20, 1989.
  - 25) Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor of June 17, 1999 (ILO Convention 182).
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APPENDIX E.—FY 2005 SELECTED U.S. ASSISTANCE PROGRAMS—ACTUAL OBLIGATIONS

| Country/Account                                        | Country/Account |        |        |       |     |         |      |       |     |         |       | Total  |     |         |
|--------------------------------------------------------|-----------------|--------|--------|-------|-----|---------|------|-------|-----|---------|-------|--------|-----|---------|
|                                                        | CSII            | DA     | FSF    | FMF   | FSA | CHAI    | IMFT | INCTE | ACT | MRA     | NADR  |        | PKO | SFED    |
| Africa                                                 | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 3,968   |
| Africa Coastal Border-Security Program                 | 29,598          | 65,356 | 11,520 | 3,968 | -   | -       | -    | -     | -   | 41,000  | 878   | 47,204 | -   | 50,000  |
| Africa Regional                                        | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | 14,880 | -   | 14,880  |
| African Contingency Operations Training and Assistance | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | -       |
| African Development Bank                               | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 4,067   |
| African Development Foundation                         | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 18,848  |
| African Development Fund                               | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 105,152 |
| Angola                                                 | 7,111           | 4,900  | 2,726  | -     | -   | -       | 313  | -     | -   | -       | 6,287 | -      | -   | 21,427  |
| Benin                                                  | 7,450           | 6,972  | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 17,141  |
| Batswana                                               | -               | -      | -      | 496   | -   | 35,544  | 710  | -     | -   | -       | -     | -      | -   | 14,56   |
| Bord Bia                                               | -               | -      | -      | -     | -   | -       | 128  | -     | -   | -       | -     | -      | -   | 3,017   |
| Bord Bia                                               | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 8,435   |
| Bord Bia                                               | 3,093           | 2,118  | 3,224  | -     | -   | -       | 256  | -     | -   | -       | -     | -      | -   | 2,827   |
| Cameroon                                               | -               | -      | -      | -     | -   | -       | 181  | -     | -   | -       | -     | -      | -   | 1,664   |
| Cape Verde                                             | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 15,000  |
| Central Africa Regional                                | -               | 15,000 | -      | -     | -   | -       | 470  | -     | -   | -       | 1,088 | -      | -   | 1,734   |
| Chad                                                   | -               | -      | -      | -     | -   | -       | 82   | -     | -   | -       | -     | -      | -   | 82      |
| Comoros                                                | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 25,512  |
| Cote d'Ivoire                                          | -               | -      | -      | -     | -   | -       | 106  | -     | -   | -       | -     | -      | -   | 47,383  |
| Democratic Republic of Congo                           | 25,415          | 16,812 | 4,960  | -     | -   | 25,512  | 239  | -     | -   | -       | 25    | -      | -   | 6,716   |
| Djibouti                                               | -               | -      | 1,984  | 4,468 | -   | -       | -    | -     | -   | -       | 2,800 | -      | -   | 3,069   |
| Eritrea                                                | -               | -      | -      | -     | -   | -       | 241  | -     | -   | -       | 301   | -      | -   | -       |
| Ethiopia                                               | 20,090          | 32,616 | 3,960  | 7,050 | -   | 69,945  | 572  | -     | -   | -       | -     | -      | -   | 134,534 |
| Ghana                                                  | -               | -      | -      | -     | -   | -       | 292  | -     | -   | -       | -     | -      | -   | 1,687   |
| Gabon                                                  | -               | -      | -      | -     | -   | -       | 190  | -     | -   | -       | -     | -      | -   | 1,873   |
| Guinea                                                 | 18,020          | 18,173 | -      | 496   | -   | -       | 648  | -     | -   | -       | -     | -      | -   | 2,528   |
| Guinea                                                 | 7,050           | 8,152  | -      | -     | -   | -       | 508  | -     | -   | -       | -     | -      | -   | 2,099   |
| Guinea-Bissau                                          | -               | -      | -      | -     | -   | -       | 87   | -     | -   | -       | -     | -      | -   | 87      |
| Kenya                                                  | 14,600          | 15,782 | 7,678  | -     | -   | 116,495 | 139  | -     | -   | -       | 4,544 | -      | -   | 162,388 |
| Kimberley Process                                      | -               | -      | 1,736  | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 1,736   |
| Lesotho                                                | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 2,742   |
| Madagascar                                             | 3,971           | 6,854  | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 43,690  |
| Malawi                                                 | 13,315          | 9,424  | 24,800 | 2,976 | -   | -       | 253  | -     | -   | -       | -     | -      | -   | 2,244   |
| Mali                                                   | 21,435          | 17,523 | -      | -     | -   | -       | 562  | -     | -   | -       | -     | -      | -   | 2,222   |
| Mauritania                                             | 16,705          | 20,669 | -      | -     | -   | -       | -    | -     | -   | -       | 1,249 | -      | -   | 3,623   |
| Mauritius                                              | -               | -      | -      | -     | -   | -       | 112  | -     | -   | -       | 1,483 | -      | -   | 3,919   |
| Mozambique                                             | -               | -      | -      | -     | -   | -       | 137  | -     | -   | -       | 479   | -      | -   | 616     |
| Military Health Affairs                                | -               | -      | -      | 1,984 | -   | -       | -    | -     | -   | -       | -     | -      | -   | 1,984   |
| Mozambique                                             | 13,430          | 17,435 | -      | -     | -   | 48,434  | 220  | -     | -   | -       | 2,336 | -      | -   | 2,340   |
| MRA Africa                                             | -               | -      | -      | -     | -   | -       | -    | -     | -   | 220,351 | -     | -      | -   | 229,351 |
| Namibia                                                | 796             | 6,602  | -      | -     | -   | 37,461  | -    | -     | -   | -       | 37    | -      | -   | 2,507   |
| NTD Democracy Programs - AF                            | -               | -      | 3,472  | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 47,403  |
| Niger                                                  | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | 1,400 | -      | -   | 4,085   |
| Nigeria                                                | 28,250          | 14,808 | 4,960  | -     | -   | 85,928  | -    | -     | -   | -       | 100   | -      | -   | 2,685   |
| NTD/OFSA                                               | 12,990          | 21,524 | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 136,278 |
| Regional Center for Southern Africa                    | 7,486           | 15,315 | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 34,424  |
|                                                        | -               | -      | -      | -     | -   | -       | -    | -     | -   | -       | -     | -      | -   | 22,861  |

| Countries/Accounts                               | CSH            | DA             | ESF            | FNF           | FSA | GHAJ           | IMET         | INCLE         | ACT | MRA            | NADR          | PKO            | SEED | Other          | Total            |
|--------------------------------------------------|----------------|----------------|----------------|---------------|-----|----------------|--------------|---------------|-----|----------------|---------------|----------------|------|----------------|------------------|
| Regional Organizations                           | -              | -              | 900            | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 900              |
| Republic of the Congo                            | -              | -              | -              | -             | -   | -              | 163          | -             | -   | -              | -             | -              | -    | -              | 163              |
| Rwanda                                           | -              | -              | -              | -             | -   | 43,800         | 296          | -             | -   | -              | -             | -              | -    | -              | 56,976           |
| Saudi Arabia                                     | 7,100          | 5,680          | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 3,472            |
| Sole States                                      | -              | -              | 3,472          | -             | -   | -              | 184          | -             | -   | -              | -             | -              | -    | -              | 184              |
| Switzerland                                      | -              | -              | -              | -             | -   | -              | 1222         | -             | -   | -              | 339           | -              | -    | 3,502          | 33,339           |
| Tanzania                                         | 14,775         | 12,995         | -              | 406           | -   | -              | 166          | -             | -   | -              | -             | -              | -    | -              | 10,022           |
| Togo                                             | -              | -              | -              | -             | -   | -              | 270          | -             | -   | -              | -             | -              | -    | -              | 5,100            |
| Tunisia                                          | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 5,100            |
| Tyng Shuang Counter-terrorism Initiative (USCII) | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 5,100            |
| Uganda                                           | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 5,100            |
| United Kingdom                                   | 15,160         | 27,967         | -              | 1,984         | -   | 122,741        | 293          | -             | -   | -              | -             | -              | -    | 1,768          | 169,913          |
| West Africa Regional                             | 19,737         | 23,009         | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 42,746           |
| Women's Justice Empowerment Initiative           | -              | -              | -              | -             | -   | -              | -            | 1,200         | -   | -              | -             | -              | -    | -              | 1,200            |
| Zambia                                           | 13,655         | 15,212         | -              | -             | -   | 99,831         | 181          | -             | -   | -              | -             | -              | -    | 3,160          | 132,039          |
| Zimbabwe                                         | 11,100         | 2,460          | 1,984          | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 15,544           |
| <b>Total Africa</b>                              | <b>370,284</b> | <b>517,507</b> | <b>126,160</b> | <b>23,918</b> | -   | <b>885,657</b> | <b>9,182</b> | <b>11,700</b> | -   | <b>323,751</b> | <b>28,062</b> | <b>199,484</b> | -    | <b>299,720</b> | <b>2,795,425</b> |
| <b>East Asia and the Pacific</b>                 | -              | -              | 744            | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | 744              |
| ASEAN                                            | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| Burundi                                          | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| Brunei                                           | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | 40            | -              | -    | -              | 40               |
| Cambodia                                         | 29,300         | 8,950          | -              | 992           | -   | -              | -            | -             | -   | -              | 3,949         | -              | -    | -              | 7,936            |
| China                                            | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| East Asia and the Pacific Regional               | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| East Timor                                       | -              | 500            | 21,824         | 1,023         | -   | -              | 564          | -             | -   | -              | 1,866         | -              | -    | 1,388          | 60,055           |
| Environmental Programs                           | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| Fiji                                             | -              | -              | -              | 248           | -   | -              | 268          | -             | -   | -              | -             | -              | -    | 1,829          | 2,345            |
| Indonesia                                        | 37,100         | 27,848         | 68,480         | -             | -   | -              | 728          | -             | -   | -              | 6,262         | -              | -    | 1,571          | 140,418          |
| Kiribati                                         | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| Korea                                            | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| Laos                                             | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | 290           | -              | -    | -              | 290              |
| Malaysia                                         | -              | -              | -              | -             | -   | -              | 1,100        | -             | -   | -              | 2,500         | -              | -    | 4,484          | 4,484            |
| Micronesia                                       | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | 2,371         | -              | -    | 3,471          | 3,471            |
| Mongolia                                         | -              | -              | -              | -             | -   | -              | 1,009        | -             | -   | -              | -             | -              | -    | 1,972          | 1,972            |
| MRA East Asia                                    | -              | -              | -              | 992           | -   | -              | -            | -             | -   | -              | -             | -              | -    | 1,694          | 13,615           |
| NED Democracy Programs - EAP                     | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| Papua New Guinea                                 | -              | -              | -              | -             | -   | -              | -            | -             | -   | -              | -             | -              | -    | -              | -                |
| Philippines                                      | 27,050         | 27,576         | 30,720         | 29,760        | -   | -              | 300          | -             | -   | -              | 2,257         | -              | -    | 300            | 30               |

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**APPENDIX E.—FY 2005 SELECTED U.S. ASSISTANCE PROGRAMS—ACTUAL OBLIGATIONS—Continued**  
**Country/Account Summaries (Spigots)**  
(\$ in thousands)

| Countries/Accounts                 | CSH           | DA           | ESF              | FMF              | FSA            | GHAI     | IMET          | INCLE        | ACI      | MIRA           | NADR          | PKO           | SEED           | Other         | Total            |
|------------------------------------|---------------|--------------|------------------|------------------|----------------|----------|---------------|--------------|----------|----------------|---------------|---------------|----------------|---------------|------------------|
| Slovakia                           | -             | -            | -                | 4,959            | -              | -        | 994           | -            | -        | -              | 575           | -             | -              | -             | 6,528            |
| Slovenia                           | -             | -            | -                | 1,486            | -              | -        | 950           | -            | -        | -              | 250           | -             | -              | -             | 2,686            |
| Turkey                             | -             | -            | -                | 33,728           | -              | -        | 3,716         | -            | -        | -              | 1,218         | -             | -              | -             | 38,662           |
| Ukraine                            | 4,663         | -            | -                | 2,976            | 138,600        | -        | 1,855         | -            | -        | -              | 3,350         | -             | -              | 4816          | 156,260          |
| <b>Total Europe and Eurasia</b>    | <b>15,863</b> | <b>-</b>     | <b>35,216</b>    | <b>212,140</b>   | <b>494,191</b> | <b>-</b> | <b>30,511</b> | <b>2,976</b> | <b>-</b> | <b>48,189</b>  | <b>33,327</b> | <b>1,400</b>  | <b>393,427</b> | <b>56,672</b> | <b>1,323,912</b> |
| <b>Near East</b>                   |               |              |                  |                  |                |          |               |              |          |                |               |               |                |               |                  |
| Algeria                            | -             | -            | -                | -                | -              | -        | 920           | -            | -        | -              | 482           | -             | -              | -             | 1,402            |
| Bahrain                            | -             | -            | -                | 18,847           | -              | -        | 649           | -            | -        | -              | 1,489         | -             | -              | -             | 20,985           |
| Egypt                              | -             | 530,720      | 1,289,690        | -                | -              | -        | 1,264         | -            | -        | -              | 461           | -             | -              | -             | 1,822,045        |
| Iraq                               | -             | -            | -                | -                | -              | -        | -             | -            | -        | -              | 3,590         | -             | -              | 26,000        | 30,490           |
| Israel                             | -             | -            | 407,120          | 2,202,240        | -              | -        | -             | -            | -        | -              | 210           | -             | -              | -             | 2,609,570        |
| Jordan                             | -             | -            | 348,000          | 304,352          | -              | -        | 3,039         | -            | -        | -              | 2,059         | -             | -              | 1,294         | 658,744          |
| Kuwait                             | -             | -            | -                | -                | -              | -        | -             | -            | -        | -              | 814           | -             | -              | -             | 814              |
| Lebanon                            | -             | 500          | 30,720           | -                | -              | -        | 809           | -            | -        | -              | 2,300         | -             | -              | -             | 43,329           |
| Libya                              | -             | -            | 300              | -                | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 300              |
| Middle East Multilateral           | -             | -            | -                | 1,984            | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 1,984            |
| Middle East Partnership Initiative | -             | -            | -                | 74,400           | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 74,400           |
| Middle East Regional Cooperation   | -             | -            | 4,960            | -                | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 4,960            |
| Morocco                            | -             | 6,000        | 19,540           | 15,128           | -              | -        | 1,920         | 2,992        | -        | -              | 2,074         | -             | -              | -             | 49,660           |
| NATO Partnership for Peace         | -             | -            | -                | -                | -              | -        | -             | -            | -        | 40,600         | -             | -             | -              | 3,401         | 51,055           |
| NATO Near East Regional            | -             | -            | -                | -                | -              | -        | -             | -            | -        | 98,442         | -             | -             | -              | -             | 98,442           |
| NATO Near East Regional            | -             | -            | -                | -                | -              | -        | -             | -            | -        | -              | 305           | 19,956        | -              | -             | 20,261           |
| NATO Muslim Democracy Programs     | -             | -            | 3,968            | -                | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 3,968            |
| Oman                               | -             | -            | -                | 19,840           | -              | -        | 1,141         | -            | -        | -              | 654           | -             | -              | -             | 21,635           |
| Qatar                              | -             | -            | -                | -                | -              | -        | -             | -            | -        | -              | 1,379         | -             | -              | -             | 1,379            |
| Saudi Arabia                       | -             | -            | -                | -                | -              | -        | -             | -            | -        | -              | 960           | -             | -              | -             | 960              |
| Tunisia                            | -             | -            | -                | 10,407           | -              | -        | 1,860         | -            | -        | -              | -             | -             | -              | -             | 12,267           |
| United Arab Emirates               | -             | -            | -                | -                | -              | -        | -             | -            | -        | -              | 534           | -             | -              | -             | 534              |
| West Bank Gaza                     | -             | 224,400      | -                | -                | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 224,400          |
| Yemen                              | -             | -            | 14,880           | 9,910            | -              | -        | 1,089         | -            | -        | -              | 3,198         | -             | -              | -             | 29,077           |
| <b>Total Near East</b>             | <b>-</b>      | <b>6,500</b> | <b>1,660,992</b> | <b>3,870,324</b> | <b>-</b>       | <b>-</b> | <b>12,691</b> | <b>2,992</b> | <b>-</b> | <b>148,042</b> | <b>20,509</b> | <b>19,956</b> | <b>-</b>       | <b>31,595</b> | <b>5,782,601</b> |
| <b>South Asia</b>                  |               |              |                  |                  |                |          |               |              |          |                |               |               |                |               |                  |
| Afghanistan                        | 38,000        | 164,000      | 1,309,800        | 396,800          | -              | -        | 945           | 709,280      | -        | -              | 41,484        | 15,500        | -              | -             | 2,675,809        |
| Bangladesh                         | 33,412        | 16,535       | 4,960            | 248              | -              | -        | 1,035         | -            | -        | -              | 893           | -             | -              | 1,773         | 58,856           |
| Central Asia Regional              | -             | -            | -                | -                | 2,000          | -        | -             | -            | -        | -              | -             | -             | -              | -             | 2,000            |
| Central Asian Republics            | 1,000         | -            | -                | -                | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 1,000            |
| India                              | 53,222        | 24,856       | 14,880           | -                | -              | -        | 1,502         | -            | -        | -              | 4,181         | -             | -              | -             | 98,641           |
| Kazakhstan                         | -             | -            | -                | 4,060            | 26,600         | -        | 997           | -            | -        | -              | 1,351         | -             | -              | 2,809         | 36,507           |
| Kyrgyz Republic                    | -             | -            | -                | 1,984            | 35,126         | -        | 1,039         | -            | -        | -              | 950           | -             | -              | 1,797         | 40,886           |
| Maldives                           | -             | -            | -                | -                | -              | -        | 169           | -            | -        | 59,098         | -             | -             | -              | -             | 169              |
| MRA South Asia                     | -             | -            | -                | -                | -              | -        | 648           | -            | -        | -              | 2,771         | -             | -              | -             | 59,098           |
| Nepal                              | 25,165        | 10,000       | 4,960            | -                | -              | -        | -             | -            | -        | -              | -             | -             | -              | -             | 43,723           |
| Pakistan                           | 21,600        | 29,000       | 298,800          | -                | -              | -        | 1,885         | 32,150       | -        | -              | 7,951         | -             | -              | 179           | 683,386          |
| <b>South Asia: Regional</b>        | <b>-</b>      | <b>-</b>     | <b>-</b>         | <b>-</b>         | <b>-</b>       | <b>-</b> | <b>-</b>      | <b>-</b>     | <b>-</b> | <b>-</b>       | <b>650</b>    | <b>-</b>      | <b>-</b>       | <b>-</b>      | <b>650</b>       |

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| Countries/Accounts                                    | CSH            | DA             | ESF            | FMF            | FSA           | GHAJ          | IMET          | INCLE          | ACT           | MRA           | NADR       | PKO            | SEED          | Other         | Total                    |
|-------------------------------------------------------|----------------|----------------|----------------|----------------|---------------|---------------|---------------|----------------|---------------|---------------|------------|----------------|---------------|---------------|--------------------------|
| South America Regional                                | 1,317          | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 1,317                    |
| Summit of the Americas Support                        | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 1,488                    |
| Suriname                                              | -              | -              | 1,488          | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 1,488                    |
| Third Border Initiative                               | -              | -              | -              | 99             | -             | -             | 139           | -              | -             | -             | -          | -              | -             | 1,248         | 1,486                    |
| Trade Capacity Building                               | -              | -              | 8,928          | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 8,928                    |
| Trade Capacity Initiative                             | -              | -              | 19,840         | -              | -             | -             | -             | -              | -             | -             | 500        | -              | -             | -             | 19,840                   |
| Trade Capacity Initiative                             | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 500        | -              | -             | -             | 500                      |
| Transit and Tobago                                    | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 40         | -              | -             | -             | 40                       |
| Veracruz                                              | -              | -              | 2,432          | -              | -             | -             | -             | -              | 2,676         | -             | 64         | -              | -             | -             | 5,408                    |
| Western Hemisphere Regional                           | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 40         | -              | -             | -             | 40                       |
| Western Hemisphere Regional                           | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 634        | -              | -             | -             | 634                      |
| <b>Total Western Hemisphere</b>                       | <b>144,620</b> | <b>217,229</b> | <b>163,027</b> | <b>108,155</b> | <b>58,848</b> | <b>13,238</b> | <b>48,204</b> | <b>725,152</b> | <b>23,775</b> | <b>10,858</b> | <b>149</b> | <b>230,000</b> | <b>99,200</b> | <b>18,848</b> | <b>180,292 1,723,408</b> |
| <b>Global</b>                                         |                |                |                |                |               |               |               |                |               |               |            |                |               |               |                          |
| Admin Assessments                                     | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 200        | -              | -             | -             | 200                      |
| Anticipation                                          | -              | -              | -              | -              | -             | -             | -             | 6,746          | -             | -             | -          | -              | -             | -             | 6,746                    |
| Anticipatory Programs                                 | -              | -              | -              | -              | -             | -             | -             | 8,333          | -             | -             | -          | -              | -             | -             | 8,333                    |
| Asia Regional                                         | -              | -              | -              | -              | -             | -             | -             | 406            | -             | -             | -          | -              | -             | -             | 406                      |
| Asia-Korea Lead Regional                              | 4,458          | 28,744         | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 33,202                   |
| Asian Development Fund                                | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 99,200                   |
| ATA Minors Network                                    | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 500        | -              | -             | -             | 500                      |
| ATA Program Management                                | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 27,058     | -              | -             | -             | 27,058                   |
| Center for Human Settlements                          | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 149        | -              | -             | -             | 149                      |
| Central Programs                                      | -              | -              | -              | -              | -             | 253,623       | -             | -              | -             | -             | -          | -              | -             | -             | 253,623                  |
| Conflict Police Program                               | -              | -              | -              | -              | -             | -             | -             | 2,678          | -             | -             | -          | -              | -             | -             | 2,678                    |
| Coalition Substantive Initiative                      | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | 230,000        | -             | -             | 230,000                  |
| CT Engagement w/Alies                                 | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 1,984      | -              | -             | -             | 1,984                    |
| CTBT International Monitoring System                  | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 18,848     | -              | -             | -             | 18,848                   |
| Debt Restructuring                                    | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | 99,200        | -             | 99,200                   |
| Demand Reduction                                      | -              | -              | -              | -              | -             | -             | -             | 9,920          | -             | -             | -          | -              | -             | -             | 9,920                    |
| Demining Administrative Expenses                      | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 600        | -              | -             | -             | 600                      |
| Demining Crosscutting Initiatives                     | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 999        | -              | -             | -             | 999                      |
| Demining Emergency Response                           | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 2,500      | -              | -             | -             | 2,500                    |
| Democracy, Conflict & Humanitarian Assistance         | 6,075          | 103,070        | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 109,145                  |
| Development Credit Program - Admin. Exp.              | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | 7,936         | 7,936                    |
| Disability Programs                                   | -              | -              | 2,480          | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 2,480                    |
| LE-MET Schools                                        | -              | -              | -              | -              | -             | -             | 3,369         | -              | -             | -             | -          | -              | -             | -             | 3,369                    |
| Economic Growth, Agriculture and Trade                | -              | 185,028        | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 185,028                  |
| Enhanced International Peacekeeping Capabilities      | -              | -              | -              | 1,786          | -             | -             | -             | -              | -             | -             | -          | -              | -             | -             | 1,786                    |
| Export Control Program Administration                 | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 2,362      | -              | -             | -             | 2,362                    |
| Export Control Regional Advisors                      | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | 6,639      | -              | -             | -             | 6,639                    |
| Export-Import Bank - Administrative Expenses          | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | 72,614        | 72,614                   |
| Export-Import Bank - Direct Loans, Negative Subsidies | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | (26,000)      | (26,000)                 |
| Export-Import Bank - Loan Subsidy                     | -              | -              | -              | -              | -             | -             | -             | -              | -             | -             | -          | -              | -             | 59,322        | 59,322                   |

[illegible]

**APPENDIX E.—FY 2005 SELECTED U.S. ASSISTANCE PROGRAMS—ACTUAL OBLIGATIONS—Continued**  
**Country/Account Summaries (Spigots)**  
(\$ in thousands)

| Countries/Accounts                                                         | CSH              | DA               | ESF              | FVF              | FSA            | GHAI             | DMET          | INCLE          | ACT            | MRA            | NADR           | PKO            | SEED           | Other    | Total                    |
|----------------------------------------------------------------------------|------------------|------------------|------------------|------------------|----------------|------------------|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------|--------------------------|
| Other Bilateral Programs                                                   | -                | -                | -                | -                | -              | 36,500           | -             | -              | -              | -              | -              | -              | -              | -        | 36,500                   |
| Other Programs                                                             | 6,015            | 7,660            | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 13,675                   |
| Partnership to Eliminate Sweatshops                                        | -                | -                | 1,984            | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 1,984                    |
| Peace Corps Other                                                          | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 154,878                  |
| Program & Policy Coordination                                              | 3,277            | 9,294            | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 12,481                   |
| Program Development and Support                                            | -                | -                | -                | -                | -              | -                | -             | 13,850         | -              | -              | -              | -              | -              | -        | 13,850                   |
| Program Equipment                                                          | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | 6,852          | -              | -              | -        | 6,852                    |
| Reconciliation Programs                                                    | -                | -                | 11,904           | -                | -              | -                | -             | -              | -              | 26,000         | -              | -              | -              | -        | 11,904                   |
| Refugee Admissions (Protection)                                            | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 26,000                   |
| Security and Sustainability Programs                                       | -                | -                | 2,976            | -                | -              | 30,500           | -             | -              | -              | -              | -              | -              | -              | -        | 2,976                    |
| Strategic Information Evaluation                                           | -                | -                | -                | -                | -              | -                | -             | 694            | -              | -              | -              | -              | -              | -        | 694                      |
| Systems Support and Upgrades                                               | -                | -                | -                | -                | -              | 55,698           | -             | -              | -              | -              | -              | -              | -              | -        | 55,698                   |
| Technical Oversight and Management                                         | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 51,088                   |
| Track and Development Agency                                               | -                | -                | 24,304           | -                | -              | -                | -             | 4,960          | -              | -              | -              | -              | -              | -        | 24,304                   |
| Trafficking in Persons                                                     | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 18,848                   |
| Trafficking Technical Assistance                                           | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 656,000                  |
| Tsunami Recovery and Reconstruction                                        | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 25,760                   |
| U.S. Emergency Refugee and Migration Assistance Fund                       | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 124,000                  |
| U.N. Children's Fund                                                       | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 12,937                   |
| U.N. Democracy Fund (UNDEF)                                                | -                | -                | 3,297            | -                | -              | -                | -             | -              | -              | -              | 500            | -              | -              | -        | 1,984                    |
| U.N. Development Fund for Women                                            | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 108,128                  |
| U.N. Development Program                                                   | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 10,912                   |
| U.N. Environment Program                                                   | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 1,488                    |
| U.N. Voluntary Fund for Technical Cooperation in the Field of Human Rights | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 6,944                    |
| U.N. Voluntary Fund for Victims of Torture                                 | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 992                      |
| UNIFEM Trust Fund                                                          | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 496                      |
| United Nations Crime Center                                                | -                | -                | -                | -                | -              | -                | -             | 496            | -              | -              | -              | -              | -              | -        | 58,528                   |
| USAID Capital Investment Fund                                              | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 34,720                   |
| USAID Inspector General Operating Expenses                                 | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 613,056                  |
| USAID Operating Expenses                                                   | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 4,960                    |
| Wheatchairs                                                                | -                | -                | 4,960            | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 1,984                    |
| World Meteorological Organization                                          | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 992                      |
| World Task Organization                                                    | -                | -                | -                | -                | -              | -                | -             | -              | -              | -              | -              | -              | -              | -        | 4,904,738                |
| <b>Total Global</b>                                                        | <b>716,373</b>   | <b>345,895</b>   | <b>90,589</b>    | <b>41,466</b>    | <b>5,000</b>   | <b>405,371</b>   | <b>4,309</b>  | <b>132,527</b> | <b>-</b>       | <b>258,607</b> | <b>236,048</b> | <b>310,000</b> | <b>-</b>       | <b>-</b> | <b>7,480,913</b>         |
| <b>Total FY 2005</b>                                                       | <b>1,562,400</b> | <b>1,448,320</b> | <b>3,914,592</b> | <b>4,995,232</b> | <b>625,520</b> | <b>1,373,920</b> | <b>89,012</b> | <b>947,389</b> | <b>725,152</b> | <b>884,240</b> | <b>422,184</b> | <b>547,568</b> | <b>393,427</b> | <b>-</b> | <b>5,501,876,234,032</b> |



## APPENDIX F.—61ST SESSION UN COMMISSION ON HUMAN RIGHTS VOTING RECORD

| Year/<br>Resolution | Resolution Title                                                                                                                                         | Method of<br>Adoption <sup>1</sup> | Agenda<br>Item |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------|
| 2005/1              | Situation in occupied Palestine                                                                                                                          | 49-1(US)-2                         | 5              |
| 2005/2              | The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination                      | 35-15(US)-2                        | 5              |
| 2005/3              | Combating defamation of religions                                                                                                                        | 31-16(US)-5                        | 6              |
| 2005/4              | The right to development                                                                                                                                 | 48-2(US)-2                         | 7              |
| 2005/5              | Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance | 46-0-4(US)                         | 6              |
| 2005/6              | Israeli settlements in the Occupied Arab Territory, including East Jerusalem and the occupied Syrian Golan                                               | 39-2(US)-12                        | 8              |
| 2005/7              | Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem                   | 29-10(US) 14                       | 8              |
| 2005/8              | Human rights in the occupied Syrian Golan                                                                                                                | 32-2(US)-19                        | 8              |
| 2005/9              | Cooperation with representatives of UN human rights bodies                                                                                               | Without a vote                     | 9              |
| 2005/10             | Situation of human rights in Myanmar                                                                                                                     | Without a vote                     | 9              |
| 2005/11             | Situation of human rights in the Democratic People's Republic of Korea                                                                                   | 30-(US)-9-14                       | 9              |
| 2005/12             | Situation of human rights in Cuba                                                                                                                        | 21(US)-17-15                       | 9              |
| 2005/13             | Situation of human rights in Belarus                                                                                                                     | 23 (US)-16-14                      | 9              |
| 2005/14             | Human rights and unilateral coercive measures                                                                                                            | 37-14(US)-2                        | 10             |
| 2005/15             | Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights                          | 37-13(US)-2                        | 10             |
| 2005/16             | Human rights and extreme poverty                                                                                                                         | Without a vote                     | 10             |
| 2005/17             | Globalization and its impact on the full enjoyment of all human rights                                                                                   | 38-15(US)-0                        | 10             |
| 2005/18             | The right to food                                                                                                                                        | 52-1(US)-0                         | 10             |
| 2005/19             | Effects of economic reform policies and foreign debt on the full enjoyment of all human rights                                                           | 33-14(US)-6                        | 10             |
| 2005/20             | Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities                                              | 29-1(US)-13                        | 10             |
| 2005/21             | The right to education                                                                                                                                   | Without a vote                     | 10             |
| 2005/22             | Question of the realization in all countries of economic, social and cultural rights                                                                     | 50-0-3(US)                         | 10             |
| 2005/23             | Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria                                                              | Without a vote                     | 10             |

APPENDIX F.—61ST SESSION UN COMMISSION ON HUMAN RIGHTS VOTING  
RECORD—Continued

|         |                                                                                                                                                                                                    |                |    |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----|
| 2005/24 | The right to everyone to the enjoyment of the highest standard of physical and mental health                                                                                                       | 52-1(US)-0     | 10 |
| 2005/25 | Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing                                                                              | Without a vote | 10 |
| 2005/26 | Human rights and forensic science                                                                                                                                                                  | Without a vote | 11 |
| 2005/27 | Enforced or involuntary disappearances                                                                                                                                                             | Without a vote | 11 |
| 2005/28 | Arbitrary detention                                                                                                                                                                                | Without a vote | 11 |
| 2005/29 | Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy                                                                        | 28-14(US)-11   | 11 |
| 2005/30 | Integrity of the judicial system                                                                                                                                                                   | 52-0-1(US)     | 11 |
| 2005/31 | Hostage-taking                                                                                                                                                                                     | Without a vote | 11 |
| 2005/32 | Democracy and the rule of law                                                                                                                                                                      | 46(US)-0-7     | 11 |
| 2005/33 | Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers                                                                                               | Without a vote | 11 |
| 2005/34 | Extrajudicial, summary or arbitrary executions                                                                                                                                                     | 36-0-17(US)    | 11 |
| 2005/35 | Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law | 40-0-13(US)    | 11 |
| 2005/36 | The incompatibility between democracy and racism                                                                                                                                                   | Without a vote | 11 |
| 2005/37 | Promoting the right to peaceful assembly and association                                                                                                                                           | 45(US)-0-8     | 11 |
| 2005/38 | The right to freedom of opinion and expression                                                                                                                                                     | Without a vote | 11 |
| 2005/39 | Torture and other cruel, inhuman or degrading treatment or punishment                                                                                                                              | Without a vote | 11 |
| 2005/40 | Elimination of all forms of intolerance and of discrimination based on religion or belief                                                                                                          | Without a vote | 11 |
| 2005/41 | Elimination of violence against women                                                                                                                                                              | Without a vote | 12 |
| 2005/42 | Integrating the human rights of women throughout the UN System                                                                                                                                     | Without a vote | 12 |
| 2005/43 | Abduction of children in Africa                                                                                                                                                                    | Without a vote | 13 |
| 2005/44 | Rights of the child                                                                                                                                                                                | 52-1(US)-0     | 13 |
| 2005/45 | Human rights and arbitrary deprivation of nationality                                                                                                                                              | Without a vote | 14 |
| 2005/46 | Internally displaced persons                                                                                                                                                                       | Without a vote | 14 |
| 2005/47 | Human rights of migrants                                                                                                                                                                           | Without a vote | 14 |
| 2005/48 | Human rights and mass exoduses                                                                                                                                                                     | Without a vote | 14 |

APPENDIX F.—61ST SESSION UN COMMISSION ON HUMAN RIGHTS VOTING  
RECORD—Continued

|         |                                                                                                                                                                                                    |                |    |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----|
| 2005/49 | Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights                                                                                      | 39-13(US)-0    | 15 |
| 2005/50 | Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994                          | 52-0-1(US)     | 15 |
| 2005/51 | Human rights and indigenous issues                                                                                                                                                                 | Without a vote | 15 |
| 2005/52 | Protection of indigenous peoples in times of conflict                                                                                                                                              | 35-13(US)-4    | 15 |
| 2005/53 | Sub-commission on Promotion and Protection of Human Rights                                                                                                                                         | Without a vote | 16 |
| 2005/54 | Enhancement of international cooperation in the field of human rights                                                                                                                              | Without a vote | 17 |
| 2005/55 | Human rights and international solidarity                                                                                                                                                          | 37-15(US)-1    | 17 |
| 2005/56 | Promotion of peace as vital requirement for the full enjoyment of all human rights by all                                                                                                          | 32-15(US)-6    | 17 |
| 2005/57 | Promotion of a democratic and equitable international order                                                                                                                                        | 32-15(US)-6    | 17 |
| 2005/58 | The development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights                                                     | Without a vote | 17 |
| 2005/59 | The question of the death penalty                                                                                                                                                                  | 26-17(US)-10   | 17 |
| 2005/60 | Human rights and the environment as part of sustainable development                                                                                                                                | Without a vote | 17 |
| 2005/61 | World Programme for Human Rights Education                                                                                                                                                         | Without a vote | 17 |
| 2005/62 | Convention on the Prevention and Punishment of the Crime of Genocide                                                                                                                               | Without a vote | 17 |
| 2005/63 | Protection of the human rights of civilians in armed conflicts                                                                                                                                     | 51-1(US)-1     | 17 |
| 2005/64 | World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action | 38-1(US)-14    | 6  |
| 2005/65 | Human rights of persons with disabilities                                                                                                                                                          | Without a vote | 14 |
| 2005/66 | The right to the truth                                                                                                                                                                             | Without a vote | 17 |
| 2005/67 | Human rights defenders                                                                                                                                                                             | Without a vote | 17 |
| 2005/68 | The role of good governance in the promotion and protection of human rights                                                                                                                        | Without a vote | 17 |
| 2005/69 | Human rights and transnational corporations and other business enterprises                                                                                                                         | 49-3(US)-1     | 10 |
| 2005/70 | Human rights and transitional justice                                                                                                                                                              | Without a vote | 17 |
| 2005/71 | Regional cooperation for the promotion and protection of human rights in the Asian Pacific Region                                                                                                  | Without a vote | 18 |
| 2005/72 | Composition of the staff of the Office of the UN High Commissioner for Human Rights                                                                                                                | 36-15(US)-2    | 18 |

APPENDIX F.—61ST SESSION UN COMMISSION ON HUMAN RIGHTS VOTING  
RECORD—Continued

|         |                                                                                                                                   |                |    |
|---------|-----------------------------------------------------------------------------------------------------------------------------------|----------------|----|
| 2005/73 | Regional Arrangements for Human Rights                                                                                            | Without a vote | 18 |
| 2005/74 | National Institutions                                                                                                             | Without a vote | 18 |
| 2005/75 | Advisory services and technical assistance in Burundi                                                                             | Without a vote | 19 |
| 2005/76 | Assistance to Sierra Leone in the field of human rights                                                                           | Without a vote | 19 |
| 2005/77 | Technical cooperation and advisory services in Cambodia                                                                           | Without a vote | 19 |
| 2005/78 | Technical cooperation and advisory services in Nepal                                                                              | Without a vote | 19 |
| 2005/79 | Rights of persons belonging to national or ethnic, religious and linguistic minorities                                            | Without a vote | 14 |
| 2005/80 | Protection of human rights and fundamental freedoms while countering terrorism                                                    | Without a vote | 11 |
| 2005/81 | Impunity                                                                                                                          | Without a vote | 17 |
| 2005/82 | Situation of human rights in Sudan                                                                                                | Without a vote | 19 |
| 2005/83 | Assistance to Somalia in the field of human rights                                                                                | Without a vote | 19 |
| 2005/84 | The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) | Without a vote | 14 |
| 2005/85 | Technical cooperation and advisory services in the Democratic Republic of the Congo                                               | Without a vote | 19 |

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<sup>1</sup> In the case of a vote, the numbers represent: votes in favor/votes against/abstentions

APPENDIX G—61st Session UN Commission on Human Rights Voting Table,  
2004–2005

|                                      | Belarus |    | Burma |    | Cuba |    | DPRK |    | Zimbabwe (n/a) |    |
|--------------------------------------|---------|----|-------|----|------|----|------|----|----------------|----|
|                                      | 04      | 05 | 04    | 05 | 04   | 05 | 04   | 05 | 04             | 05 |
| <b>AFRICA-15</b>                     |         |    |       |    |      |    |      |    |                |    |
| Algeria (03) .....                   | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| Burkina Faso (05) .....              | a       | a  | —     | —  | n    | a  | a    | a  | y              | —  |
| Cameroon (03) .....                  | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| DROC (03) .....                      | a       | n  | —     | —  | n    | n  | a    | a  | y              | —  |
| <b>Egypt (08)</b> .....              | n       | n  | —     | —  | n    | n  | n    | n  | y              | —  |
| <b>Eritrea (08)</b> .....            | a       | n  | —     | —  | a    | n  | a    | y  | y              | —  |
| <b>Ethiopia</b> .....                | a       | n  | —     | —  | n    | n  | a    | a  | y              | —  |
| Gabon (05) .....                     | a       | y  | —     | —  | a    | a  | y    | a  | y              | —  |
| <b>Guinea</b> .....                  | —       | a  | —     | —  | —    | n  | —    | n  | —              | —  |
| Kenya (03) .....                     | —       | n  | —     | —  | —    | n  | —    | y  | —              | —  |
| Libya (03) .....                     | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| <b>Mauritania (08)</b> .....         | a       | a  | —     | —  | a    | a  | a    | a  | y              | —  |
| <b>Nigeria (08)</b> .....            | n       | —  | —     | —  | n    | n  | n    | a  | y              | —  |
| Senegal (03) .....                   | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| Sierra Leone (04) .....              | n       | —  | —     | —  | n    | —  | a    | —  | y              | —  |
| South Africa (03) .....              | n       | n  | —     | —  | n    | n  | a    | a  | y              | —  |
| Sudan (04) .....                     | n       | n  | —     | —  | n    | n  | n    | n  | y              | —  |
| Swaziland (05) .....                 | a       | n  | —     | —  | n    | a  | a    | a  | y              | —  |
| Togo (04) .....                      | a       | a  | —     | —  | n    | a  | a    | a  | y              | —  |
| Uganda (04) .....                    | a       | —  | —     | —  | a    | —  | a    | —  | y              | —  |
| Zimbabwe (05) .....                  | n       | n  | —     | —  | n    | n  | n    | n  | y              | —  |
| <b>ASIA-12</b>                       |         |    |       |    |      |    |      |    |                |    |
| Bahrain (04) .....                   | a       | —  | —     | —  | n    | —  | a    | —  | y              | —  |
| <b>Bhutan (08)</b> .....             | a       | a  | —     | —  | a    | a  | y    | y  | y              | —  |
| China (05) .....                     | n       | n  | —     | —  | n    | n  | n    | n  | y              | —  |
| India (03) .....                     | n       | n  | —     | —  | n    | n  | a    | a  | y              | —  |
| <b>Indonesia (08)</b> .....          | n       | n  | —     | —  | n    | n  | n    | n  | y              | —  |
| Japan (05) .....                     | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| Korea (04) .....                     | y       | y  | —     | —  | y    | y  | a    | a  | n              | —  |
| Malaysia (03) .....                  | —       | n  | —     | —  | —    | n  | —    | n  | —              | —  |
| <b>Nepal (08)</b> .....              | a       | a  | —     | —  | a    | a  | a    | a  | y              | —  |
| Pakistan (04) .....                  | a       | a  | —     | —  | n    | a  | a    | a  | y              | —  |
| <b>Qatar</b> .....                   | a       | a  | —     | —  | n    | n  | a    | a  | y              | —  |
| Saudi Arabia (03) .....              | a       | a  | —     | —  | n    | y  | y    | y  | y              | —  |
| Sri Lanka (05) .....                 | y       | y  | —     | —  | a    | a  | y    | y  | y              | —  |
| Syria (03) .....                     | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| Thailand (03) .....                  | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| Vietnam (03) .....                   | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| <b>GRULAC-11</b>                     |         |    |       |    |      |    |      |    |                |    |
| Argentina (05) .....                 | a       | a  | —     | —  | a    | a  | y    | y  | n              | —  |
| Brazil (05) .....                    | y       | a  | —     | —  | a    | a  | y    | y  | a              | —  |
| Chile (04) .....                     | y       | —  | —     | —  | y    | —  | y    | —  | n              | —  |
| Costa Rica (03) .....                | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| Cuba (03) .....                      | n       | n  | —     | —  | n    | n  | n    | n  | y              | —  |
| <b>Dominican Republic (08)</b> ..... | y       | y  | —     | —  | y    | a  | y    | y  | n              | —  |
| Ecuador .....                        | —       | a  | —     | —  | —    | a  | —    | y  | —              | —  |
| Guatemala (03) .....                 | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| <b>Honduras (08)</b> .....           | a       | a  | —     | —  | y    | y  | y    | y  | n              | —  |
| Mexico (04) .....                    | y       | y  | —     | —  | y    | y  | y    | y  | a              | —  |
| Paraguay (05) .....                  | y       | y  | —     | —  | a    | a  | y    | y  | n              | —  |

APPENDIX G—61st Session UN Commission on Human Rights Voting Table,  
2004–2005—Continued

|                               | Belarus |    | Burma |    | Cuba |    | DPRK |    | Zimbabwe (n/a) |    |
|-------------------------------|---------|----|-------|----|------|----|------|----|----------------|----|
|                               | 04      | 05 | 04    | 05 | 04   | 05 | 04   | 05 | 04             | 05 |
| Peru (03) .....               | y       | y  | —     | —  | y    | a  | y    | y  | n              | —  |
| Uruguay (03) .....            | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| Venezuela (03) .....          | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| <b>E. EURO-5</b>              |         |    |       |    |      |    |      |    |                |    |
| Armenia (04) .....            | n       | n  | —     | —  | y    | y  | y    | y  | n              | —  |
| Croatia (04) .....            | y       | —  | —     | —  | y    | —  | y    | —  | n              | —  |
| <b>Hungary (08)</b> .....     | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| Romania .....                 | —       | y  | —     | —  | —    | y  | —    | y  | —              | —  |
| Poland (03) .....             | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| Russian Federation .....      | n       | n  | —     | —  | n    | n  | n    | n  | y              | —  |
| Ukraine (05) .....            | n       | y  | —     | —  | n    | y  | y    | y  | n              | —  |
| <b>WE06-10</b>                |         |    |       |    |      |    |      |    |                |    |
| Australia (05) .....          | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| Austria (04) .....            | y       | —  | —     | —  | y    | —  | y    | —  | n              | —  |
| Belgium (03) .....            | —       | —  | —     | —  | —    | —  | —    | —  | —              | —  |
| Canada (03) .....             | —       | y  | —     | —  | —    | y  | —    | y  | —              | —  |
| Finland .....                 | —       | y  | —     | —  | —    | y  | —    | y  | —              | —  |
| France (04) .....             | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| Germany (05) .....            | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| Ireland (05) .....            | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| <b>Italy (08)</b> .....       | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| <b>Netherlands (08)</b> ..... | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| Sweden (04) .....             | y       | —  | —     | —  | y    | —  | y    | —  | n              | —  |
| UK (03) .....                 | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| U.S. (05) .....               | y       | y  | —     | —  | y    | y  | y    | y  | n              | —  |
| <b>Final Vote</b>             |         |    |       |    |      |    |      |    |                |    |
| yes .....                     | 23      | 23 | C     | C  | 22   | 21 | 29   | 30 | 27             | —  |
| no .....                      | 13      | 16 | —     | —  | 21   | 17 | 8    | 9  | 24             | —  |
| abstain .....                 | 17      | 14 | —     | —  | 10   | 15 | 16   | 14 | 2              | —  |

n/a = No Action Vote.

Countries in bold were new to the CHR in 2004.

Numbers within parenthesis indicate the year a country's term ends.

## APPENDIX H.—UNIVERSAL DECLARATION OF HUMAN RIGHTS

## PREAMBLE

*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Whereas* disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

*Whereas* it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

*Whereas* it is essential to promote the development of friendly relations between nations,

*Whereas* the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

*Whereas* Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

*Whereas* a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

*Now, therefore*, The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

*Article 1*

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

*Article 2*

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

*Article 3*

Everyone has the right to life, liberty and the security of person.

*Article 4*

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

*Article 5*

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

*Article 6*

Everyone has the right to recognition everywhere as a person before the law.

*Article 7*

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

*Article 8*

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

*Article 9*

No one shall be subjected to arbitrary arrest, detention or exile.

*Article 10*

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

*Article 11*

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

*Article 12*

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

*Article 13*

1. Everyone has the right to freedom of movement and residence within the borders of each state.

2. Everyone has the right to leave any country, including his own, and to return to his country.

*Article 14*

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

*Article 15*

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor be denied the right to change his nationality.

*Article 16*

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.



*Article 17*

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

*Article 18*

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

*Article 19*

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Article 20*

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

*Article 21*

1. Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

*Article 22*

1. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

*Article 23*

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favorable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

*Article 24*

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

*Article 25*

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

*Article 26*

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

*Article 27*

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

*Article 28*

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

*Article 29*

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

*Article 30*

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

*Hundred and eighty-third plenary meeting  
Resolution 217(A)(III) of the United Nations General Assembly,  
December 10, 1948*

